

## **Frequently Asked Questions for Landlords**

### **FAIRFAX JUST CAUSE EVICTIONS ORDINANCE**

#### **1. When am I permitted to evict my tenants?**

**Fairfax's Just Cause Evictions Ordinance prohibits arbitrary evictions. You may still evict a tenant if you have a just cause.**

**You may still legally evict a tenant for the following just causes:**

1. Failure to pay rent
2. Breach of lease, but see below for sublessee exceptions
3. Creating a nuisance or damaging the unit
4. Repeatedly refusing to give you access to the unit to conduct necessary repairs or show unit to prospective purchasers
5. You must make substantial repairs (*may only justify temporary displacement*)
6. You or your family member moves into the unit
7. You permanently withdraw unit from the rental market
8. Failure to vacate after a written buy-out agreement between you and your tenant
9. Termination of a temporary tenancy (a tenancy of less than 12 months) in order for you to move in

#### **2. When does Fairfax's Just Cause Evictions Ordinance go into effect?**

**December 2, 2022.**

#### **3. Am I covered by Fairfax's Just Cause Evictions Ordinance?**

Fairfax's ordinance will cover most tenants. However, there are several exclusions from the law. If your units fall into one of the following categories, Fairfax's Just Cause Evictions Ordinance does not apply to your tenants:

1. Dorm rooms
2. Mobile homes in mobile home parks
3. Hotel rooms and short-term rentals, if your tenant stayed in the unit for less than 30 days
4. Hospitals, medical facilities, non-profit senior homes, and other facilities where people receive care
5. Rental units where a government agency or authority fully owns, operates and manages
6. Units where the rent is limited by a legally binding restriction that restricts rent to no more than affordable rent (example: Program-based section 8 complex)

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#### **4. What happens if I need to make substantial repairs to my unit that will require displacing the tenant for 30 days or less?**

Under the law, you may require your tenant to temporarily vacate their unit for up to 30 days in order to make substantial repairs deemed necessary for the tenant's health and safety.

If your tenant is temporarily displaced due to the need for substantial repairs and you own another vacant rental unit in Fairfax with the same number of bedrooms or fewer, then you must offer your tenant that unit under a temporary rental agreement. The unit's rent may not exceed the lawful rent of your original unit or the lawful rent of the new unit, whichever is less.

##### **Short-Term Relocation Payments**

If your tenant is temporarily displaced for 30 days or less due to the need for substantial repairs (Example: termite tenting), you are required to immediately provide the short-term relocation payments listed below for each day of displacement. If your tenant accepts these short-term relocation payments, they must continue to pay rent. Alternatively, your tenant may forgo short-term relocation payments and stop paying rent for the duration of their displacement.

1. Hotel or motel accommodations: \$168.15 per household;
2. Meal expenses: \$33.85 per occupant;
3. Laundry: \$1.12 per household;
4. Pet accommodation: \$32.73 per cat and \$58.69 per dog.

#### **5. What happens if I need to make substantial repairs to my unit that will require displacing the tenant for more than 30 days?**

You can evict your tenant if the repairs are such that it would require your tenant to vacate their unit for more than 30 days. However, you must meet certain requirements. The repairs must be necessary to address certain health and safety violations and you must acquire permits before you serve your tenant with a notice of eviction.

If your tenant is evicted for substantial repairs, they are entitled to relocation payments in the amount of two months rent. If your tenant or a member of their household is a senior (62 years or older), disabled, terminally-ill or has minor children in the household, they are entitled to an additional \$3,000 payment.

You cannot pursue an eviction for substantial repairs if you own another vacant unit within the town of Fairfax that your tenant can temporarily reside in until the repairs are complete. You also cannot pursue an eviction against your tenant if the repairs can be completed within 60 days and your tenant does not agree to vacate in writing.

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Finally, if your tenant is evicted for substantial repairs, they have the right to return when the repairs are complete. If they choose to return to the unit, you must offer the same terms and rent at the time of your eviction, plus any lawful adjustments under Fairfax's Rent Stabilization ordinance. It is your tenant's responsibility to ensure you have their current contact information. If the original tenant declines to re-occupy the unit, the base rent is set at the rent at time of termination, plus any lawful increases.

## **6. What happens if I want to move into my unit or have a family member move in?**

Under the law, you may evict your tenant if you or your spouse, child, parent, or grandparent seek in good faith to occupy the unit as your/their primary residence. This is referred to as an "Owner Move-In." You or the family member must occupy the unit within 90 days of the unit being vacated and intend to occupy the unit for at least 1 year.

However, you cannot pursue an eviction for an Owner Move-In if any of the following are true:

- You or your family member already occupies a unit on the property
- There is another vacant unit on the property
- There is another comparable unit on the property occupied by a tenant who moved onto the property more recently.
- If your tenant has resided on the property for more than three years and is 62 years or older, disabled, or terminally ill UNLESS you or your family member is also disabled and there is no other vacant unit on the property.

**Right of Return:** If your tenant is displaced due to an Owner Move-In and their former rental unit returns to the market, they have the right to return to that unit under the same terms as their former tenancy and with the same rent, plus any lawful adjustments under Fairfax's Rent Stabilization ordinance. If the original tenant declines to re-occupy the unit, the base rent is set at the rent at time of termination, plus any lawful increases.

**Relocation:** If your tenant is displaced due to an Owner Move-In, you must provide relocation payments equal to two months' rent at the time you serve the notice of termination. If your tenant or a member of their household is 62 years of age or older, 17 years of age or younger, disabled, or terminally-ill, then they are entitled to an additional \$3,000 relocation payment.

## **7. What happens if I choose to permanently withdraw my unit from the rental market?**

Under the law, you maintain the right to evict your tenant in order to permanently withdraw your rental unit from the rental market (i.e., go out of business) as permitted by the Ellis Act. These are often referred to as "Ellis Act Evictions."

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If you serve your tenant an Ellis Act Eviction, you are required to provide a minimum of 120 days advance notice. If your tenant or a member of their household is 62 years of age or older or disabled, you must provide one year of advance notice.

If you serve your tenant an Ellis Act Eviction and attempt to place the unit, or a newly constructed unit, back on the rental market within two years, you may be liable to the displaced tenant for triple damages.

**Right of Return:** If your tenant is displaced due to an Ellis Act Eviction and their former rental unit, or a newly constructed rental unit, returns to the market within five years, they have the right to return to that unit under the same terms as their former tenancy and with the same rent, plus any lawful adjustments under Fairfax's Rent Stabilization ordinance. It is your tenant's responsibility to ensure you have their current contact information.

## **8. What other protections do my tenants have under the Fairfax just cause ordinance?**

**Lease terms under one year:** You can choose to evict your tenant if their lease term is less than one year and you had previously occupied the unit and want to return. You are not required to provide any relocation payments.

**Protections for school age children and educators:** You cannot evict for substantial repairs or owner move-in if your tenant has resided in the unit for more than a year and there are K-12 school-age children under the age of 18 or educators in the household if the notice of eviction requires move out during the school year. "Educators" includes any staff or contractors employed by a school.

**Written warning requirement:** If you believe your tenant is creating a nuisance on the property (example: causing damage to the unit), you must first give your tenant a letter describing the nuisance seven days before you serve a notice of eviction for the nuisance. We recommend that you discuss with your tenant, in writing, how to resolve the alleged nuisance before an eviction notice is served.

## **9. Do just cause eviction protections apply to my ADU or JADU when rented?**

Yes. There are no exemptions for Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs) when rented for other than a short term rental.

## **10. Do just cause eviction protections apply to my short-term rental?**

No. Short-term rentals of less than 30 days are exempt from just cause eviction protections.

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## **11. Can I work out a temporary tenancy with my new tenant without paying for their relocation?**

Under the law, you may establish a temporary tenancy with a new tenant that does not require relocation payments if the following are true:

- You will be recovering the unit to occupy as your primary residence when the temporary tenancy ends;
- You previously occupied the unit as your primary residence prior to the temporary tenancy beginning;
- The temporary tenancy lasts longer than 30 days but less than 12 months;
- The beginning of the temporary tenancy, you provide the tenant with a written statement that includes the length of the tenancy and that the tenancy may be terminated at the end of the temporary tenancy period.

## **12. Can my tenants sublease to other tenants without my approval?**

You may set the maximum number of occupants for your unit in the original lease.

If your tenant requests to sublease their unit, you may refuse their request in writing within 14 days of receiving said request. You must state the reason for your refusal, which may not be based on the proposed additional occupant's lack of creditworthiness, if the occupant will not be directly paying rent to you. If you do not respond to your tenant's request within 14 days, their request will be deemed approved.

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