

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING CHAPTER 5.54, JUST CAUSE EVICTIONS AND CHAPTER 5.55, RENT
STABILIZATION PROGRAM OF TITLE 5 OF THE FAIRFAX TOWN CODE**

WHEREAS, in 2022 the Town Council held hearings regarding Just Cause Evictions and Rent Stabilization and adopted two ordinances, number 870 and number 871, now codified in Chapter 5.54 Just Cause Evictions, and Chapter 5.55 Rent Stabilization Program of the Fairfax Town Code; and

WHEREAS, the Town Council now wishes to revise certain portions of those Chapters.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DOES
ORDAIN AS FOLLOWS:

SECTION 1. Section 5.54.020 of the Fairfax Town Code, entitled “Definitions,” is hereby amended in part as follows (deletions shown in strikethrough and additions with underline):

“§ 5.54.020 DEFINITIONS.

For the purpose of this Chapter and Chapter 5.55,

...

DWELLING UNIT. ... who maintain a common household and as defined in California Civil Code section 1940, as may be amended from time to time ~~and the Fairfax Town Code.~~

EDUCATOR. ...at a school, grade 12 or below, in Marin County

...

LODGER. A person contracting with the owner of a Dwelling Unit for a room or room and board within the Dwelling Unit personally occupied by the owner, where the owner retains a right of access to all areas of the Dwelling Unit occupied by the Lodger and has overall control of the Dwelling Unit, and as defined by California Civil Code section 1946.5, as may be amended or renumbered from time to time.

...

PRIMARY RESIDENCE. ... by a limited liability corporation, limited partnership, limited liability company when at least one member is a corporation, a real estate investment trust (REIT) as defined in section 856 of the Internal Revenue Code, a private equity firm, private equity REIT, a corporation or other corporate....

SCHOOL YEAR. ...School’s ~~District~~...

STUDENT. A person following a course of study as a school, grade 12 or below, in Marin County.”

SECTION 2. Section 5.54.030 of the Fairfax Town Code, entitled “Just Cause for Eviction – Protections” is hereby amended in part as follows (deletions shown in strikethrough and additions with underline):

“§ 5.54.030

(A) **Applicability.** ...~~or (3) Dwelling Units owned by a limited liability company when at least one member is a corporation, a limited partnership, a real estate investment trust (REIT) as defined in Section 856 of the Internal Revenue Code, a private equity firm, a private equity REIT, a corporation or other corporate structure; or (4) ...~~

(B) **Exemptions.** ...

(5) Rental Unit occupied by a Lodger.

(6) Junior Accessory Dwelling Unit (JADU), with or without a separate entrance, as long as the owner of the Dwelling Unit resides in the Dwelling Unit.

(7) Accessory Dwelling Unit (ADU), as long as the ADU is attached to an owner occupied Dwelling Unit.

(C) **For Cause Evictions.**.....

(2)(a)(ii) one-for-one basis, ~~or the sublease adds additional occupants up to the maximum amount of occupants legally allowed under section 503(b) of the Uniform Housing Code as incorporated by California Health & Safety Code section 17922, except where prohibited by law.~~ ...

(iv) ... refusal of the Tenant’s written request ~~may~~ could be based upon ...

(2)(c) ... in this section, and pursuant to State law, a Landlord ...

(4) Tenant Illegal Activities. Tenant has been convicted for using the Dwelling Unit for an illegal purpose as provided in California Civil Code section 1161, including, but not limited to, the unlawful distribution of a controlled substance as contemplated by California Civil Code section 3486, the unlawful use, manufacture, or possession of weapons and ammunition as contemplated by California Civil Code section 3485, or for a serious crime or violent felony as defined by applicable law, which occurred during the tenancy and within 1,000 feet of the Dwelling Unit. For purposes of this subsection, a Tenant may cure the violation of another Tenant in the Dwelling Unit by removing, and demonstrating such removal, of the offending Tenant.

(5) Threat of a Violent Crime. Any statement made by a Tenant, or at the Tenant's request by the Tenant's agent, to any person located on the premises, including the unit of the Landlord or Landlord's agent, threatening commission of a crime which could result in death or great bodily injury to another person, with the intent that the statement is to be understood as a threat, even if there is no intent of acting on the statement, if that statement causes the person threatened to have a reasonable fear for their safety or the safety of their family or household.

(6) Damaging or Trespassing on the Property of Another Tenant or Landlord. Causing damage to or trespass upon the property or possessions of any other Tenant or the Landlord or otherwise committing waste to the Dwelling Unit or premises.

(74) ...

~~(85)(d) — Where the Landlord recovers possession under this subsection either prior to or after an unlawful detainer judgment, the Tenant must be given the right of first refusal to re-occupy the unit. The Landlord shall notify the Tenant household at least sixty (60) days in advance of the availability of the unit or room. Within thirty (30) days of receipt of the notice of availability, a Tenant household must notify the Landlord if it wishes to re-occupy the unit or room. The Landlord must hold the unit or room vacant at no cost to the Tenant for sixty (60) days from the date the Tenant household's written notice of its intent to re-occupy the Rental Unit or room is received.~~

(96) ...or the Landlord's child, parent, grandchild, grandparent, brother or sister, or spouse or domestic partner (as defined in California Family Code section 297) of such relatives, or as a result of the addition of the spouse or domestic partner of the Landlord, or an individual acting as a caregiver by providing care to an individual in the household, so long as the number of occupants does not exceed the maximum number of occupants as determined under section 503(b) of the Uniform Housing Code as incorporated by the California Health & Safety Code section 17922. spouse, child, parent or grandparent

(9)(b) ...exists on the Property. Unless good cause is shown, oOnly one specific unit

(9)(g) ... and is either at least 652 years of age or Disabled, is also Disabled or certified as being terminally ill by a treating physician and no other units

(9)(h) ... subsection 5.54.030(C)(96) notice to vacate,under subsections 5.54.030(C)(96)(e), 5.54.030(C)(96)(f), and... ~~The Town Manager shall also send a notice to the Rental Unit that states the maximum Rent for that unit, and shall send an updated notice to the unit 12 months, 24 months, 36 months, 48 months, and 60 months thereafter, or within 30 days of such date. If a notice~~

(107)120-day notice or 180 days ~~one year~~ in the case a Tenant is 652 years of age....

(118)

(129)

(D) **Recovery of Possession.**

(E) **Right of Return and First Right of Refusal.** Sections 5.54.030(C)(85) or (C)(96) or shall have the first right of refusal to return to the unit if it should ever be returned.... Landlord within two years. listed in sections 5.54.030(C)(85) or (C)(96) plus any lawful adjustment served under sections 5.54.030(C)(85) or (C)(96) shall state the lawful.... ~~If the Tenant declines to re-occupy the Rental Unit after it is returned to the rental market, the lawful base Rent for the new tenancy shall be the Rent lawfully paid by the Tenant at the time the Landlord served the termination notice, plus any lawful adjustment under this Chapter or Chapter 5.55.~~

(F) **School Year Protections for Educators and Students.**to an eviction under sections 5.54.030(C)(85) or (C)(96) if a child

(G) **Written Warning Notice Requirements.**described in subsections 5.54.030(C)(2), (3), or (7) (4) shall be served

(H) **Retaliation is Barred.**

(I) **Additional Notice Requirements.**described in subsections 5.54.030 (C)(2), (3) or (7) (4)

(J) **Failure to Comply.**for actual treble damages. ”

SECTION 3. Section 5.54.050 of the Fairfax Town Code, entitled “Relocation” is hereby amended in part as follows (deletions shown in strikethrough and additions with underline):

“§ 5.54.050

(A) under sections 5.54.030(C)(85) – (107)

(B) Includes a Tenant who is 65 years of age payment of one month’s Rent \$3,000.

(C) — Every year following the date of passage, the relocation payments specified in subsections 5.54.050(A) and (B) shall increase annually at the rate of increase in the “rent of primary residence” expenditure category of the Consumer Price Index (CPI) for Marin County for the preceding calendar year, as that data is made available by the United States Department of Labor and published by the Town.

(~~CD~~)

(3) A per diem of \$150 per day ~~The following amounts shall be paid~~
by

~~(i) Hotel or motel accommodations: \$168.15 per household;~~

~~(ii) Meal expenses: \$33.85 per occupant;~~

~~(iii) Laundry: \$1.12 per household;~~

~~(iv) Pet accommodation: \$32.73 per cat and \$58.69 per dog.~~

(4) The per diem ~~Replacement~~ amounts shall be adjusted yearly based on
the CPI shall publish on the Town website the new

(~~DE~~)

(~~EF~~)under sections 5.54.030(C)(~~85~~) – (~~107~~) is not a defensepursuant to
sections 5.54.030(C)(~~85~~) – (~~107~~), the reason”

SECTION 4. Section 5.54.060 of the Fairfax Town Code, entitled “Units Withdrawn
From The Rental Market Pursuant To The Ellis Act” is hereby amended in part as
follows (deletions shown in strikethrough and additions with underline):

“§ **5.54.060** Pursuant to section 5.54.030(C)(~~107~~) of this Chapter.

(A) **Re-rental of Rental Unit within Two Years.**

(1)by that action for actual ~~treble~~-damages.

(2) The Town ~~Manager~~ may institute

(B) **Re-Rental of Units within Five Years.**

(2)(a)is filed with the Town ~~Manager~~, whether or not

~~(C) Re-Rental of Rental Units within Five Years~~ (4) A Landlord who....

(~~CD~~) **Demolition Restrictions**or lease within four (4) years of the date

(~~DE~~) **Applicability to Successors in Interest.**successors in interest, except by
inheritance, of a Landlord

- (~~EF~~)
- (~~FG~~) under section 5.54.030(C)(~~107~~) must provide the Town ~~Manager~~ with a notice,
- (~~GH~~)
- (~~HI~~) prescribed by the Town ~~Manager~~, and will
- (~~IJ~~) notify the Town ~~Manager~~ in writing
- (~~JK~~) withdrawal to the Town ~~Manager~~.is at least ~~65~~2 years of age..... extended to 180 days ~~one year~~ after the date of
- (~~KL~~) of the Town ~~Manager~~ receiving
- (1) to the Town ~~Manager~~ of the notice
- (5) delivery to the Town ~~Manager~~ of the noticewithdrawal to the Town ~~Manager~~ and any Tenant....
- (~~LM~~)to subsection 5.54.030(C)(~~107~~) of the following:
- (1) That the Town ~~Manager~~subsection 5.54.060(~~FG~~).
- (2) That the notice to the Town ~~Manager~~ specified
- (5) (a) If the Tenant is at least ~~65~~2 years of age....delivery to the Town ~~Manager~~ of the notice.... 180 days ~~one year~~to the Town ~~Manager~~ of the notice....to the Town ~~Manager~~ of the notice....
- (b)delivery to the Town ~~Manager~~ of the notice of intent....
- (~~MN~~)notice is given to the Town ~~Manager~~, and thereafterpursuant to section 5.54.030(C)(~~107~~) shall notify the Town ~~Manager~~,
- (~~NO~~) The Town ~~Manager~~ shallpursuant to section 5.54.030(C)(~~107~~).
- (~~OP~~) The Town ~~Manager~~ shall notifyof subsection 5.54.060(~~MN~~) that it in subsection 5.54.060(~~LM~~), and that the....
- (~~PQ~~) The Town ~~Manager~~ shall under section 5.54.030(C)(~~107~~) and the Rent The Town ~~Manager~~ that the Rental Unit
- (~~QR~~) The Town ~~Manager~~ may”

SECTION 5. Section 5.54.070 of the Fairfax Town Code, entitled “Remedies” is hereby amended in part as follows (deletions shown in strikethrough and additions with underline):

“§ 5.54.070

- (A) Affirmative Defense.
- (B) Civil Liability.
- (C) Civil Actions to Determine Liability.
- (D) Other Private Rights of Action.....”

SECTION 6. Section 5.55.020 of the Fairfax Town Code, entitled “Definitions” is hereby amended in part as follows (deletions shown in strikethrough and additions with underline):

“§ 5.55.020

DWELLING UNIT.a common household and as defined in California Civil Code section 1940, as may be amended or renumbered from time to time. ~~And the Fairfax Town Code, Chapter 17.~~”

SECTION 7. Section 5.55.030 of the Fairfax Town Code, entitled “Applicability” is hereby amended in part as follows (deletions shown in strikethrough and additions with underline):

“§ 5.55.030

(A) Applicability.to a household within the meaning of California Civil Code”

SECTION 8. Section 5.55.070 of the Fairfax Town Code, entitled “Rent Stabilization” is hereby amended in part as follows (deletions shown in strikethrough and additions with underline):

“§ 5.55.070

(A) Authority and Duties. The Town Manager or Town Council, as provided, shall have”

SECTION 9. Section 5.55.110 of the Fairfax Town Code, entitled “Remedies” is hereby amended in part as follows (deletions shown in strikethrough and additions with underline):

“§ 5.55.110

~~(C) — If the Tenant from whom such excessive payment is demanded, accepted, received or retained in violation of the foregoing provisions of this Chapter or any rule or regulation or order hereunder promulgated, fails to bring a civil or administrative action as provided for in this section within one hundred twenty (120) days from the date of occurrence of the violation, the Town Manager may settle the claim arising out of the violation or bring such action. Thereafter, the Tenant on whose behalf the Town Manager acted is barred from also bringing an action against the Landlord in regard to the same violation for which the Town Manager has made a settlement or brought action. In the event the Town Manager settles said claim, the Town shall be entitled to retain the costs it incurred in settlement thereof, and the Tenant against whom the violation has been committed shall be entitled to the remainder. “~~

SECTION 10. Compliance with CEQA. The Town Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of the Ordinance may have a significant effect on the environment, in that this Ordinance applies residential tenant protection to existing residential units in the Town of Fairfax, which is solely an administrative process resulting in no physical changes to the environment. Accordingly, this Ordinance contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures.

SECTION 11. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 12. Effective Date and Posting. This Ordinance shall take effect thirty (30) days after its adoption. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women’s Club Building, located at 46 Park Road.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the ___ day of _____, 2023, and duly adopted at the next regular meeting of the Town Council on the ___ day of _____, 2023, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chance Cutrano, Mayor

Attest:

Michele Gardner, Town Clerk

Date