

**ORDINANCE NO. 22 – \_\_\_\_**

**AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY CODE OF ORDINANCES BE AMENDED BY ADDING ARTICLE XIII TO CHAPTER 42 FOR A TENANT’S BILL OF RIGHTS, THE PROHIBITION OF SOURCE OF INCOME DISCRIMINATION AND NOTICE OF LATE FEES; PROVIDING FOR AREAS EMBRACED; PROVIDING FOR DEFINITIONS; PROVIDING FOR A REQUIREMENT TO PROVIDE TENANTS WITH A NOTICE OF RIGHTS; PROVIDING FOR A PROHIBITION ON SOURCE OF INCOME DISCRIMINATION; PROVIDING FOR A REQUIREMENT TO PROVIDE TENANTS WITH NOTICE OF LATE FEES; PROVIDING FOR ENFORCEMENT AND FINES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Pinellas County is experiencing a significant demand for affordable rental housing units; and

WHEREAS, the availability of safe and affordable housing is an essential component of individual and community well-being; and

WHEREAS, protecting residential tenants from discrimination and unfair and illegal rental practices is fundamental to the health, safety and welfare of the community; and

WHEREAS, the Pinellas County Board of County Commissioners (BCC) wishes to adopt a Tenant’s Bill of Rights in order to increase tenant awareness of their rights and to provide guidance to tenants regarding available community resources; and

WHEREAS, government programs exist which assist families, the elderly, veterans and persons with disabilities to afford decent and safe housing in the private residential market through financial subsidies, including Housing Choice (Section 8) Vouchers and Veterans Affairs Supportive Housing (VASH) vouchers; and

WHEREAS, the U.S. Department of Housing and Urban Development reports that some landlords avoid renting to voucher recipients because of the administrative burdens of participating in such programs and other landlords resist renting to voucher recipients because they perceive voucher recipients to be undesirable tenants and/or they fear that other tenants would object to voucher recipients as neighbors; and

WHEREAS, the BCC desires to eliminate discrimination in a person's ability to obtain housing based on a person's lawful source of income for rental payments, thereby increasing the number of households who are able to successfully locate safe, affordable, and accessible housing in Pinellas County; and

WHEREAS, the BCC recognizes that while reasonable late fees may be an important aspect of the landlord/tenant relationship, it is essential that tenants understand and know when they incur these fees; and

WHEREAS, the BCC finds that provisions of this Ordinance are in the best interests of the County.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA:

**SECTION 1.** The recitals set forth above are incorporated herein.

**SECTION 2.** The Pinellas County Code of Ordinances is hereby amended by adding Article XIII of Chapter 42, Sections 42-432 to 42-437. Article XIII of Chapter 42 shall be titled "Tenant's Bill of Rights."

**SECTION 3.** Article XIII of Chapter 42, Sections 42-432 to 42-437, is hereby created to read as follows:

**Sec. 42-432. Areas Embraced.**

This article shall be effective in the incorporated as well as unincorporated areas of Pinellas County; however, to the extent that this article conflicts with a city ordinance, the city ordinance shall prevail. Any city may also elect to opt out of the provisions of this article.

**Sec. 42-433. Definitions.**

For the purpose of this article, the following terms shall have the meanings as indicated. No attempt is made to define any words which are used in accordance with their established dictionary meaning, except when necessary to avoid misunderstanding. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include words in the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall," "will" and "must" are mandatory and the word "may" is permissive.

*Late fee* shall mean a charge of any kind, levied against a tenant, associated with the time or date on which a tenant pays their rent, pursuant to a rental agreement.

*Lawful source of income* shall mean income from:

- (1) A lawful profession, occupation or job;
- (2) Any government or private assistance, grant, loan or housing assistance program or subsidy, including but not limited to Housing Choice (Section 8) Vouchers and Veterans

Affairs Supportive Housing (VASH) Vouchers, Social Security, and Supplemental Security Income;

- (3) A gift, an inheritance, a pension or other retirement benefits, an annuity, trust income, investment income, alimony, child support, or veteran's benefits; or
- (4) the sale of property or an interest in property.

*Notice of Rights* shall mean a printed, paper copy, available in both English and Spanish, in font 12-point or larger and on paper of eight and one-half by 11 inches or larger, of a Notice of Rights provided by the Pinellas County Office of Consumer Protection. For purposes of this article, if a tenant has consented to receiving and signing documents via electronic means, then the Notice of Rights may be provided to the tenant in electronic form rather than as a printed, paper copy.

*Person* shall mean any individual, firm, corporation or other organization or group of persons however organized, including but not limited to any landlord, owner, lessee, lessor, sublessee, sublessor, assignee, assignor, manager, real estate broker, salesperson, condominium association, homeowners' association, cooperative association, or any representative of any of the foregoing.

*Pinellas County Office of Consumer Protection* shall mean the Pinellas County Department of Justice and Consumer Services.

*Rental agreement* shall mean an agreement, either written or oral, by which a tenant is entitled to possess a rental unit in exchange for consideration, or is a "rental agreement", as defined in F.S. § 83.43, as it may be amended.

*Rental unit* shall mean a residential housing unit that is or may be occupied by a tenant who does not own the property in exchange for consideration and by virtue of an agreement with the owner of such residential property, or which is a "dwelling unit", as defined in F.S. § 83.43, as it may be amended. Rental units governed by Chapter 723 of Florida Statutes are excluded from this definition and the provisions of this article.

*Tenant* shall mean a natural person or persons who shall occupy, attempt to occupy, or inquire about occupying a rental unit in exchange for consideration and by virtue of a written or oral agreement with the owner of such rental unit, or are a "tenant" as defined in F.S. § 83.43, as it may be amended.

**Sec. 42-434. Notice.**

- (a) It shall be unlawful for a person to allow a tenant to apply to rent, or in instances where no application is required, to occupy, a rental unit under said person's control or authority without first providing the tenant with a copy of the Notice of Rights.
- (b) For existing tenants already occupying a rental unit as of the date of enactment of this article, the Notice of Rights shall be provided prior to the commencement of a new rental term. For tenants with rental terms of 30 days or less, the Notice of Rights shall be provided prior to initial commencement of the rental term and thereafter no less than once per year. Notices are not required for short-term rentals with non-recurring rental terms of 30 days or less.
- (c) Pinellas County Office of Consumer Protection shall prescribe the contents of the Notice of Rights, but it shall generally include information on tenants' rights under federal, state and local law and contact information for organizations available to provide assistance to tenants.

- (d) There shall be a rebuttable presumption that a person has complied with this section if the person can provide a written, dated and signed affirmation from the tenant stating that the tenant has received the Notice of Rights. The signed affirmation shall be retained for at least one (1) year after the tenant vacates the rental unit.
- (e) For a person's first violation of this section, the Pinellas County Code Enforcement Department and/or Pinellas County Office of Consumer Protection shall have the discretion to provide a reasonable time period, not to exceed 30 days, within which the person must correct the violation.
- (f) This section does not create any private causes of action and may only be enforced as provided herein.

**Sec. 42-435. Discrimination relating to public assistance.**

- (a) It shall be unlawful and is hereby prohibited for any person:
  - (1) To refuse to rent, show or lease, to refuse to negotiate for the rental of, or otherwise to make unavailable or deny, a rental unit to any tenant because of that tenant's lawful source of income, or because of the tenant's status with regard to a public assistance program, or because of any requirements of a public assistance program.
  - (2) To discriminate against any tenant in the terms, conditions, or privileges of the rental or lease of a rental unit, or in the provision of services or facilities in connection therewith, because of that tenant's lawful source of income.
  - (3) To use a financial or income standard in assessing eligibility for the rental of a rental unit that is not based on the portion of the rent to be paid by the tenant in instances where there is a government rent subsidy which will be used to pay for a portion of the rent.
  - (4) To represent to any tenant because of the tenant's lawful source of income that any rental unit is not available for inspection or rental when such rental unit is in fact so available.
  - (5) To make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the rental of a rental unit that indicates any preference, limitation, or discrimination based on a lawful source of income, or an intention to make any such preference, limitation, or discrimination.
  - (6) To induce or attempt to induce another person, for profit, to rent any rental unit by representations regarding the entry or prospective entry into the neighborhood of a tenant with particular lawful sources of income.
- (b) Violations of this section shall be punishable as set forth in Section 42-437. In addition, the County Administrator, through his or her designee, is authorized to report violations to any local, state or federal authority. Investigation and enforcement by the County may occur concurrently with any investigation and enforcement actions by local, state or federal authorities.
- (c) This section does not create any private causes of action and may only be enforced as set forth herein.

**Sec. 42-436. Late fees.**

- (a) It shall be unlawful for any person to assess a late fee against a tenant without first providing written notice to the tenant, against whom the late fee is assessed, for each late fee assessed.
- (b) This written notice shall be separate from any notice requirements provided for in a rental agreement and shall be required each time a new late fee is assessed. Only one (1) notice shall be required if the same late fee continues to accrue after delivery of the notice.
- (c) A written notice, for purposes of this section, shall include a statement informing the tenant that:
  - (1) A late fee has been incurred;
  - (2) The justification for the late fee;
  - (3) The amount of the late fee which is due at the time of the notice, and if late fees will continue to accrue, a statement explaining the rate at which such fees will continue to accrue; and
  - (4) A reference to the language in the applicable rental agreement which establishes the amount of late fees to be assessed.
- (d) A written notice, for purposes of this section, may be delivered:
  - (1) In an email to an email address provided by a tenant on a rental agreement or subsequent written agreement for receiving notices;
  - (2) On paper, and delivered via certified mail to an address provided by a tenant on a rental agreement;
  - (3) On paper, and posted securely on the front door of the rental unit subject to the late fee; or
  - (4) On paper, and hand delivered to the tenant.
- (e) There shall be a rebuttable presumption that a person has complied with this section if the person can produce one of the following, which was sent or posted on the day the late fee was assessed:
  - (1) A copy of an email, with the required information set forth above, sent to an email address for the tenant that is provided for as a contact method in that tenant's written rental agreement or subsequent written agreement; or
  - (2) A copy of a written and dated letter, with the required information set forth above, and either:
    - a. A dated certification from the USPS of delivery of the letter to an address for the tenant that is provided for as a contact method in that tenant's written rental agreement; or
    - b. A time-stamped photograph of the letter clearly posted on the front door of the rental unit subject to the late fee; or
    - c. A signed and dated affidavit by the delivery person certifying hand delivery of the notice to the tenant on the date delivered.

- (f) This section does not create any private causes of action and may only be enforced as set forth herein.

**Sec. 42-437. Enforcement.**

- (a) Duly authorized code inspectors employed within Pinellas County’s Code Enforcement Division and/or Office of Consumer Protection, and as may be reorganized or renamed from time-to-time, may enforce this article pursuant to the procedures set forth in F.S. § 125.69, as it may be amended.
- (b) A violation of this article is punishable by a fine of \$500.00 for a first offense and any subsequent offenses.

**SECTION 4.** If any section or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

**SECTION 5.** It is the intention of the BCC that the provisions of this Ordinance be made a part of the Pinellas County Code of Ordinances and that the sections of this Ordinance may be renumbered or re-lettered and the word “Ordinance” may be changed to section, article, or other such appropriate word or phrase to accomplish such intentions.

**SECTION 6.** Pursuant to Section 125.66(b) of the Florida Statutes, within ten (10) days of adoption of this Ordinance, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Pinellas County Board of County Commissioners. This Ordinance shall take effect on October 3, 2022.