City of Rochester, NY
Rochester City Council
City Hall Room 301A • 30 Church Street • Rochester, New York 14614-1290

Neighborhoods, Jobs & Housing
Introductory No.
251

President **Miguel A. Meléndez, Jr.**; Vice President **LaShay D. Harris**; Councilmembers **Mitch Gruber; Willie J. Lightfoot, Sr.; Mary Lupien; Stanley Martin; Bridget A. Monroe; Michael A. Patterson; and Kim Smith**

June 4, 2024

TO THE COUNCIL

Ladies and Gentlemen:

Re: Good Cause Eviction

Council Priority: Housing

Comprehensive Plan 2034 Initiative Area: Reinforcing Strong Neighborhoods

Transmitted herewith for your approval is a local law that opts the City of Rochester into New York State's new Good Cause Eviction Law (the Law), which was enacted on April 20th. The Law, subject to certain exemptions described below, prohibits landlords from taking any action to evict or to fail to renew a lease for rental housing unless the landlord can demonstrate "good cause" for doing so. The Law also indirectly limits rent increases by denying non-payment of rent as a good cause basis for eviction if part of the unpaid rent is due to an unreasonable increase in rent. These good cause eviction (GCE) rules will go into effect as soon as the local law is enacted and filed with the NYS Secretary of State.

In another part that will not go into effect until August 18, 2024, the Law also requires landlords to provide to their tenants a very detailed written notice of the tenant's rights under GCE at the signing of a lease, at the renewal of a lease, when increasing the rent and when seeking to evict. Unlike the GCE provisions of the Law, this notification requirement will apply to leases that are subject to GCE as well as those that are exempt.

The Law requires localities seeking to opt in to Good Cause Eviction to adopt all of the Law's provisions with only two exceptions relating to the "small landlord" and high-rent exemptions listed below. Nevertheless, we propose to adopt the standards suggested by the State for these two exemption categories (i.e. maximum of 10 units owned by the small landlord and high-rent exemption for rents exceeding 245% of local fair market value).

Rentals that are Exempt from Good Cause Eviction

The following residential rental arrangements are exempt from the Law's good cause eviction requirements:
- units owned by a "small" landlord who owns no more than 10 rental units in New York State;
- units exceeding 245% of the fair market rent for Monroe County;
- buildings for which a certificate of occupancy was issued on or after January 1, 2009;
- units already subject to rent regulation pursuant to local, state, or federal law, rule, or regulation;
- owner-occupied buildings containing 10 or fewer units;
- manufactured homes located in manufactured home parks;
- units occupied as an incident to the tenant's job that is being lawfully terminated;
- hotel rooms and other transient uses; and
- religious facilities or institutions; seasonal use units; units within hospitals; and dormitories.

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The facilities exempt from GCE are not exempt from the Law's enhanced notice and disclosure requirements described below. Moreover, the tenants of GCE-exempt units are still entitled to the rights and remedies that tenants already possess under preexisting provisions of the State Real Property Law, the State Real Property and Actions Law and other pertinent federal, state and local laws and ordinances.

Good Cause Evictions

The Law limits good cause to the following set of narrowly defined circumstances.

Non-payment of rent, provided that all or part of the unpaid rent did not result from an unreasonable rent increase as described below.

Violation of a substantial obligation of the lease, provided that the obligation is reasonable and has not been imposed for purposes of circumventing the Law, and the tenant has failed to cure the violation within ten day of receiving written notice.

Nuisance in the unit or on the property committed or allowed by the tenant.

Substantial damage to the unit or on the property committed or allowed by tenant out of malice or gross negligence.

Interference with the comfort and safety of the landlord or other tenants or occupants of the same or another adjacent building or structure committed or allowed by the tenant.

Occupancy violates or causes a violation of law that subjects the landlord to civil or criminal penalties and that has prompted a legal order for the tenant to vacate, provided that a court finds that the cure of the violation requires removing the tenant and that the landlord did not deliberately or negligently create the condition that necessitated the order to vacate.

Use of the unit or property for an illegal purpose committed or allowed by the tenant.

Unreasonably refusing landlord access for the purpose of making necessary repairs or improvements required by law or for the purpose of showing the housing accommodation to a prospective purchaser, mortgagee or other person having a legitimate interest therein.

Recovering possession of the unit for the personal use and principal residence of the landlord or their family member or domestic partner, provided that there is no suitable housing accommodation available elsewhere in the building. No judgment in favor of the landlord on this basis may be granted unless the landlord establishes good faith for asserting this justification by clear and convincing evidence. This good cause justification cannot be invoked to vacate a tenant who is 65 years or older of who is a disabled person.

Demolition or withdrawal of the unit from the housing market, provided that no judgment in favor of the landlord on these bases may be granted unless the landlord establishes good faith for asserting this justification by clear and convincing evidence.

Tenant refusal to agree to reasonable changes or reasonable rent increase that are proposed at lease renewal and at least 30 to 90 days in advance, depending on how long the tenant has occupied the premises. A reasonable rent increase is one that is equal to or less than the threshold for an unreasonable increase as described below

Unreasonable rent increase

The determination of what constitutes an unreasonable increase in rent starts out with the presumption of unreasonableness for any increase that exceeds the lesser of either 10% or the annual increase in the urban Consumer Price Index for the Northeast Region of the U.S. plus 5%. However, the landlord may rebut that presumption with relevant facts such as the costs of fuel, utilities, insurance, and maintenance; property tax expenses; and the cost of significant repairs to the property that were not the result of landlord's prior failure to properly maintain the property.

Detailed Notice and Disclosure

The Law adds specific disclosures to be included in notices given to tenants at the time of entry into a lease, lease renewal or non-renewal, upon a demand for rent payment, or upon commencement of an eviction proceeding. The notice and disclosure requirements apply to rental premises that are subject to the Law's new GCE rules **and** to those that are not.

On the occasions described above, the landlord is required to fill out a disclosure form set forth in the Law itself. The form requires the landlord to disclose:

- whether the lease is subject to the Law's new good cause eviction (GCE) rules;
- if the lease is not subject to GCE, check which of the Law's GCE exemption clauses applies and notify the tenant that "[e]ven if your apartment is not protected by the... New York State Good Cause Eviction Law, you may have other rights under other local, state, or federal laws and regulations concerning rents and evictions";
- for increasing the rent for a GCE lease, whether the increase exceeds the presumptively unreasonable increase threshold and, if so, the landlord's cost justifications for doing so; and
- for GCE leases that will not be renewed, check which of the list of GCE justifications apply.

Respectfully Submitted,

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At-Large

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Willie J. Lightfoot, Sr.
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INTRODUCTORY NO.

251

Local Law No.

Local law amending the City Charter to adopt a Good Cause Eviction Law

BE IT ENACTED, by the Council of the City of Rochester as follows:

Section 1. Chapter 755 of the Laws of 1907, entitled "An Act Constituting the Charter of the City of Rochester", as amended, is hereby further amended by adding to the end of Article X, Department of Neighborhood and Business Development, the following new section:

§ 10-13. Good Cause Eviction Law.

The Good Cause Eviction Law enacted in Part HH of Chapter 56 of the 2024 Laws of New York (the "State Law") is hereby adopted by local law to apply in the City of Rochester.

A. The Good Cause Eviction Law for the City of Rochester shall include the following enactments of the State Law:

1. adding Article 6-A, §§ 211-218, to the Real Property Law (Section 1)
2. amending § 226-c of the Real Property Law (Section 2);
3. adding a new § 231-c to the Real Property Law (Section 3);
4. amending § 711 of the Real Property Actions and Proceedings Law (Section 4);
5. amending § 741 of the Real Property Actions and Proceedings Law (Section 5); and
6. declaring the severability of the enactments in the event that any provision or application thereof is held to be invalid (Section 6).

B. In accordance with Real Property Law §213, Voluntary participation by local government outside the City of New York, as enacted in Section 1 of the State Law:

1. Two hundred forty-five percent (245%) is hereby adopted as the percentage of local fair market rent at which, if exceeded, a housing accommodation unit shall be exempt from the good cause eviction restrictions in Article 6-A of the Real Property Law;
2. Ten (10) is hereby adopted as the maximum number of housing accommodation units owned in New York State by a "small landlord" exempted from the good cause eviction restrictions in Article 6-A of the Real Property Law.

C. This Law shall expire and be deemed repealed on June 15, 2034.

Section 2. This local law shall take effect upon its filing in the Office of the Secretary of State as provided by Section 27 of the NYS Municipal Home Rule Law, with the exception § 10-13 clauses A.2, A.3, A.4, and A.5, which shall take effect upon the latter of a) the filing of this local law in the Office of the Secretary of State, or b) August 18, 2024.