

# **The Philadelphia Fair Housing Ordinance**

**Chapter 9-800 of the Philadelphia Code**



## **Enforced by the City of Philadelphia Fair Housing Commission**

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# Inclusive of Amendments to the Philadelphia Code through October 2011

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**Note: Footnotes in this document have been renumbered for administrative purposes. For actual footnote numbers, please refer to the Philadelphia Code.**

# CHAPTER 9-800. LANDLORD AND TENANT – RENT CONTROL<sup>1</sup>

## § 9-801. Legislative Findings.<sup>2</sup>

The Council of the City of Philadelphia hereby finds:

- (1) In order to protect the health, safety and general welfare of the citizens and inhabitants of the City, the City has enacted a comprehensive Fire Code and a comprehensive Housing Code.
- (2) The enforcement of these protective legislative measures has been seriously hampered because the owners of the property against whom tenants have filed complaints with the appropriate City authority revealing Fire Code violations or Housing Code violations, have developed a practice of evicting complaining tenants for these reasons or upon other convenient pretexts.
- (3) Fearful of eviction, tenants have been hesitant to report violations and have been compelled to live under conditions which are in violation of existing ordinances and which create situations dangerous to the health and safety of the tenants and the entire community.
- (4) Efforts of the existing Mayor's Fair Rent Committee to prohibit unfair rental practices has not proved effective because the Committee has lacked the power to subpoena witnesses or the production of records of owners or their agents who are leasing dwellings which are in violation of the Fire Code or the Housing Code as set forth in The Philadelphia Code.

## § 9-802. Definitions.<sup>3</sup>

- (1) *Commission.* Fair Housing Commission.
- (2) *Premises.* Any single, duplex or multi-family dwelling.
- (3) *Unfair Rental Practice.* Any act in violation of § 9-804.

## § 9-803. Fair Housing Commission.<sup>4</sup>

(1) A Fair Housing Commission is hereby created to be composed of 5 members to be appointed by the Mayor. The members of the Commission shall select from among the members a chairman. All of the members of the commission shall serve without compensation. The Commission shall have power to hold hearings and conduct investigations in connection with any unfair rental practice upon complaint or upon its own initiative. The Commission shall have power to compel the attendance of witnesses and the production of documents as provided in Section 8-409 of The Philadelphia Home Rule Charter.

## § 9-804. Unfair Rental Practices.<sup>5</sup>

- (1) Whenever any premises are found in violation of any provision of The Philadelphia Code and a notice of violation has been issued by any department or agency of the City, it shall be unlawful for any owner, landlord, agent or other person operating or managing such premises to:

(a) terminate the lease with the existing tenant unless the tenant has failed to pay rent, committed a nuisance, committed waste or caused the premises to have been in such violation under The Philadelphia Code;

(b) offer, tender, give, exchange or transfer possession or the right to possession to any person not in possession of the premises upon any terms or conditions until the violation has been corrected; or

(c) make, alter, amend or modify any term or condition of any existing lease or arrangement of tenancy with any person in possession of the premises at the time notice of violation is issued until the violation has been corrected;

(d) make, alter, amend or modify any term or condition of any existing lease or arrangement of tenancy with any tenant for a period of one year after correction of any violations where the action against the tenant is intended to collect the cost or value of making any or all of the corrections necessary to comply with The Philadelphia Code and where also any violation has remained uncorrected, whether or not recorded by the Department of Licenses and Inspections, for a period of one year or more prior to the date of correction. The burden shall be on the landlord to show that the violation has not existed uncorrected for a period of one year or more prior to the date of correction in any legal proceeding in which the provisions of this ordinance shall be relevant.

(2) It shall be unlawful for any owner, landlord, agent or other person operating or managing premises to terminate a lease with a tenant or make, alter, amend or modify any term or condition of any existing lease or arrangement of tenancy with a tenant in retaliation for:

(a) any violation having been found against the premises;

(b) the filing of a complaint alleging a violation;

(c) the joining of any lawful organization, or any other exercise of a legal right. It shall be unlawful for any owner, landlord, agent or other person operating or managing premises to refuse to lease any premises to a prospective tenant because he believes the prospective tenant has exercised any such right;

(d) an incident of domestic violence or sexual assault in which a tenant was the victim, or a tenant's status as a victim of domestic violence or sexual assault. For purposes of this subsection (2)(d) the meaning of the terms "victim", "domestic violence" and "sexual assault" are as defined in Section 9-3201 of this Code.<sup>6</sup>

In any civil proceeding involving this provision in which the notice of termination or alteration of a term or condition of the lease was given within one year after a violation was found, a right of the tenant against the landlord, agent or other person operating or managing premises was exercised, or a correction made, whichever is the latest, it shall be the burden of the owner, landlord, agent or other person operating or managing such premises to prove that the notice was not given in retaliation for the exercise by the tenant of his legal rights.

(3) The provisions of this Section shall not apply to:

(a) Any bona fide transfer of title incident to a sale of the premises, but any subsequent owner, landlord, agent or other person operating or managing such premises shall be subject to the provisions of this Chapter.

(b) Any owner, landlord or agent or other person operating or managing any premises against which a notice of violation has been issued who desires to terminate an existing occupancy in order that the premises may be rehabilitated and the violation cured, and the Department of Licenses and Inspections issues a certification that such work requires that the premises be vacated.

(4) No owner, landlord, agent or other person operating or managing any premises shall unlawfully retain any security deposit, however styled in a lease.

(5) No owner, landlord, agent or other person operating or managing any premises shall accept any rental payment under any written lease on the premises until he has given a fully executed copy of the lease to all the parties to the lease.

(6) The owner, landlord, agent or other person operating or managing the premises shall, at the request of a tenant who is a victim of domestic violence or sexual assault, permit the tenant to terminate the lease regardless of the lease term and without penalty for early termination provided:<sup>7</sup>

(a) the request is made, in writing, within ninety (90) days of (i) the reporting of an incident of domestic violence or sexual assault, (ii) the issuance of a protection from abuse order or (iii) the approval of a consent agreement, and at least thirty (30) days before the requested termination date;

(b) the victim vacates the premises no later than the early termination date; and

(c) at the time the request is made for termination of the lease, the tenant provides:

(i) a court order or approved consent agreement for protection from abuse pursuant to the Protection from Abuse Act, Act of December 19, 1990, P.L. 1240, No. 206, § 2 (23 Pa.C.S. § 6101 et seq.);

(ii) an incident report from the Police Department stating that a domestic abuse or sexual assault complaint was filed by the tenant; or

(iii) written certification from a health care professional or professional guidance counselor, licensed under the laws of the Commonwealth of Pennsylvania, or a victim's services organization, as defined in Section 9-3201 of this Code, stating that the tenant sought assistance as a victim of domestic violence or sexual assault.

(7) If the abuser or perpetrator of the domestic violence or sexual assault is a cotenant, the owner, landlord, agent or other person operating or managing the premises may, upon the victim's request, bifurcate the lease in order to evict the abuser or perpetrator of the domestic violence or sexual assault, while allowing the victim to remain in the premises provided the victim's request complies with 6(a) and (c) of this Section.<sup>8</sup>

The provisions of subsections (6) and (7) shall be implied in all leases and made a written term in all leases reduced to writing for any lease executed or renewed after the effective date of this Section.

(8) All terms and conditions of the lease remain in effect until the date of termination or bifurcation. If any tenant wishes to inhabit the leased premises after early termination or bifurcation, a new lease with the landlord must be executed.<sup>9</sup>

(9) Nothing in subsection (6) or (7) limits the authority of the landlord, owner, agent or other person operating or managing the premises to evict a tenant, who is the victim of domestic or sexual violence, for any violation of a lease other than one premised on the act or acts of violence in question against such tenant, provided that, in determining whether to evict, the landlord, owner, agent or other

person operating or managing the premises does not apply a more demanding standard, than that applied to other tenants who are not victims of domestic or sexual violence.<sup>10</sup>

(10) Nothing in subsection (6) or (7) changes the authority of any court to evict an abuser under the Pennsylvania Protection from Abuse Act, Act of December 19, 1990, P.L. 1240, No. 206, § 2 (23 Pa.C.S. § 6101 et seq.).<sup>11</sup>

(11) Any person aggrieved under the provisions of this Section may file a complaint with the Fair Housing Commission or may allege any violations in an initial pleading or, where appropriate, in a responsive pleading in a court of competent jurisdiction.<sup>12</sup>

(12) No provision of this Section can be waived or made subject to a contract between the parties depriving a tenant of the benefits of this Section.<sup>13</sup>

**§ 9-805. Procedure.**<sup>14</sup>

(1) Upon any complaint made to the Commission or upon its own initiative, the Commission shall have the power to fix the date, time, and place when it shall conduct a hearing. Written notice of the date, time, and place of the hearing shall be sent, at least 10 days prior to the hearing, to the owner or agent of the premises regarding which it is charged that an unfair rental practice has been committed. The notice shall set forth a brief statement of the facts upon which the complaint is based.

(2) At the hearing the complainant, owner and his agent and their witnesses shall have an opportunity to appear and be represented by counsel.

(3) Upon a finding that an unfair rental practice has been committed, the Commission shall issue an order appropriate under the circumstances.

(4) If the owner or agent shall fail to appear, the Commission may issue a subpoena as provided in Section 8-409 of The Philadelphia Home Rule Charter.

**§ 9-806. Penalty.**<sup>15</sup>

(1) Any person violating an order of the Commission or any provision of this Chapter is subject to a fine of not less than fifty (50) dollars and of not more than three hundred (300) dollars together with costs of prosecution.

# CHAPTER 9-1200. CONDOMINIUM AND COOPERATIVE CONVERSIONS<sup>16</sup>

## § 9-1201. Legislative Findings.

The Council of the City of Philadelphia hereby finds:

- (1) Rising costs in the maintenance and upkeep of multiple occupancy dwellings have forced owners to seek alternatives to the rental form of ownership.
- (2) Escalating property values whereby high profits can be reaped by the sale of the property also make more attractive the trend toward conversion of these buildings to condominiums.
- (3) The cost of purchasing a unit, in many cases, is far greater than paying the monthly rental fee for the unit and it is often extremely difficult for the tenant to get his or her finances in order quickly enough to determine whether purchasing their unit is economically feasible.
- (4) This situation can lead to the displacement or eviction of tenants, many of them elderly who have lived in their rental units for years with the intention of making their unit their permanent residences.
- (5) When they settled into their rental unit, in many cases, no representation was made to them that the form of building ownership might change, thus requiring a radically different financial outlay than originally anticipated.
- (6) Even the task of finding comparable rental housing elsewhere on short notice, and moving into it, has placed a great burden on these tenants.
- (7) A need exists for legislation to afford these tenants some relief from the situation, which is detrimental to their welfare, without unnecessarily infringing on the property rights of the owner of the multiple occupancy dwelling.
- (8) The City of Philadelphia can, under its police powers, enact legislation which regulates the health, safety or welfare of its citizens.

## § 9-1202. Definitions.

- (1) *Commission.* Fair Housing Commission.
- (2) *Condominium.* The type of real property ownership defined by the Unit Property Act, 68 P.S. §§ 700.101 et seq.
- (3) *Cooperative.* A multiple occupancy dwelling owned by a corporation, an unincorporated association or a business trust whereby the stockholders, trustees or members of the association own the unit or units which they occupy or own the entire multiple occupancy dwelling in which they are tenants.<sup>17</sup>

(4) *Multiple Occupancy Dwelling.* Any dwelling or part thereof containing three or more dwellings units.<sup>18</sup>

(5) *Unfair Conversion Practice.* Any act in violation of Section 9-1204.<sup>19</sup>

### **§ 9-1203. Fair Housing Commission.**

(1) The Fair Housing Commission, created by § 9-803 of the Code, shall have the power to hold hearings and conduct investigations in connection with any unfair conversion practice upon complaint or upon its own initiative. The Commission shall have the power to subpoena witnesses and the production of documents as provided in Section 8-409 of the Philadelphia Home Rule Charter.

### **§ 9-1204. Unfair Conversion Practices.**

(1) It shall be unlawful for any owner, landlord, agent or other person operating or managing a multiple occupancy dwelling to convert said premises to a condominium, or to terminate a lease with a tenant or to make, alter, amend or modify any term or condition of any existing lease or arrangement of tenancy with a tenant for the purpose of converting the said premises to a condominium, unless:

(a) the tenant has been notified in writing by certified mail, return receipt requested, of the owner's intention to convert to a condominium by a date certain specified therein, which notice shall be delivered one year prior to the date of the scheduled conversion;

(b) the notice of intention to convert contains a statement informing the tenant then in possession of his or her exclusive right to purchase their unit at a specified price during the first 6 months of the notice period. During the right-to-purchase period, the owner or his agent cannot show the unit to other prospective buyers unless the tenant has, in writing, waived the right to purchase;

(c) the statement contains a specific statement of the total amount due on or before settlement of the purchase contract, including any initial or special condominium fees due;

(d) the statement contains information on the actual expenditures made on all repairs, maintenance, operation and upkeep of the subject property, including all taxes and utility payments, within the last three years, set forth tabularly with the proposed budget of the condominium and cumulatively broken down on a per unit basis;

(e) the statement contains a description of any provisions made in the budget for reserves for capital expenditures, or, if no provision is made for reserves, a statement to this effect;

(f) the statement contains a declaration as to the present condition of all structural components and major utility installations in the subject property, including the dates of construction, installation and major repairs, and the expected useful life of each item, together with the estimated cost (in current dollars) of replacing each of same.

(2) A tenant in possession at the time of the delivery of the notice referred to above, may not be required to vacate the premises prior to the expiration of the one year's notice period except for:

(a) nonpayment of rent;



(b) breach of a covenant in the existing lease;

(c) the tenant's having committed a nuisance or waste upon the property, or having caused the premises to be in violation of The Philadelphia Code.

(3) Any tenant in possession at the time of delivery of the aforesaid notice, whose lease would ordinarily terminate during the one-year period, is entitled to have the tenancy extended on the same terms and conditions until the expiration of the one-year period from the date of the notice.

(4) Any tenant in possession at the time of delivery of the notice may terminate his lease with 90 days' notice without penalty for termination.

(5) Tenants who take possession of a unit after the one year's notice provision is delivered pursuant to this Section, but before the date of actual conversion, shall be notified in writing prior to the signing of the lease, of the owner's intentions to convert to a condominium as of the specified date and given whatever information is requested by that tenant relative to the costs of purchasing that unit.

(6) No provision of this Section can be waived or made subject to a contract between the parties depriving a tenant of the benefits of this Section.

(7) It is the policy of the City of Philadelphia that provisions in any contracts, leases or other undertakings which allow owners or their agents, at their option, to cancel and terminate the terms of such leases upon any future possibility of conversion to a condominium, upon less than one year's notice as required by this Section, shall be null and void as against public policy, except in the following case:

(a) if the term of the lease shall be less than one year between the date of original occupancy in the multiple occupancy dwelling and the date of conversion.

#### **§ 9-1205. Enforcement Procedure.**

(1) Upon any complaint made to the Commission or upon its own initiative, the Commission shall have the power to fix the date, time and place when it shall conduct a hearing. Written notice of the date, time, and place of the hearing shall be sent, at least 10 days prior to the hearing, to the owner or agent of the premises regarding which it is charged that an unfair conversion practice has been committed. The notice shall set forth a brief statement of the facts upon which the complaint is based.

(2) At the hearing, the complainant, owner and his agent and their witnesses shall have an opportunity to appear and be represented by counsel.

(3) Upon a finding that an unfair conversion practice has been committed, the Commission shall issue an order appropriate under the circumstances.

(4) If the owner or agent shall fail to appear, the Commission may issue a subpoena as provided in Section 8-409 of the Philadelphia Home Rule Charter.

**§ 9-1206. Condominium Conversion Moratorium.**

(1) (a) For a period of eighteen (18) months, no individual, partnership, association, corporation or other entity owning, operating or managing a multiple occupancy dwelling, any part of which is located in the City of Philadelphia, intending to convert any such existing multiple occupancy dwelling to a condominium or condominiums shall file a Declaration of Condominium, Declaration Plan or Code of Regulations with the Department of Records of the City of Philadelphia or any other agency of the City of Philadelphia, and neither shall the Department of Records of the City of Philadelphia nor any other agency of the City of Philadelphia accept any Declaration of Condominium, Declaration Plan or Code of Regulations calling for the conversion of an existing multiple occupancy dwelling to a condominium or condominiums for a period of eighteen (18) months.

(b) For a period of eighteen (18) months to run concurrently with the eighteen (18) month period referred to in [subsection] (1)(a) of this Section, no notice, pursuant to Section 9-1204(1)(a), shall be sent.

(c) The Commission shall be empowered to seek injunctive relief to enforce this Section.

(2) During this period, the City Planning Commission shall undertake, utilizing the powers granted by this Chapter, a comprehensive and detailed study of the process and effect of condominium conversions. The purpose of such study shall be to formulate proposals for legislation to protect purchasers and tenants, to accommodate the interests of owners interested in converting rental properties to condominiums, and to develop a comprehensive plan for facilitating an orderly process of condominium conversions and a balance between rental and condominium housing stock.

**§ 9-1207. Penalty.<sup>20</sup>**

(1) Any person violating an order of the Commission or any provision of this Chapter is subject to a fine of not less than one hundred (100) dollars and of not more than three hundred (300) dollars, together with costs of prosecution. Each violation shall constitute a separate offense.

**§ 9-1208. Cooperative Conversion.<sup>21</sup>**

Section 9-1201 through Section 9-1209 listed herein shall also be applicable to the conversion of existing multiple occupancy dwellings to cooperative type real property.

**§ 9-1209. Severability.<sup>22</sup>**

If any sentence, clause, section or part of this Chapter is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Chapter. It is hereby declared as the intent of the City Council that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

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1. **Source:** 1955 Ordinances, p. 88; 1956 Ordinances, p. 1; added, 1962 Ordinances, p. 89.
  2. Added, 1962 Ordinances, p. 89.
  3. Added, 1962 Ordinances, p. 89.
  4. Added, 1962 Ordinances, p. 89; amended, 1970 Ordinances, p. 125.
  5. Added, 1962 Ordinances, p. 89.
  6. Added, Bill No. 110498 (approved October 26, 2011), effective December 25, 2011.
  7. Added, Bill No. 110498 (approved October 26, 2011), effective December 25, 2011.
  8. Added, Bill No. 110498 (approved October 26, 2011), effective December 25, 2011.
  9. Added, Bill No. 110498 (approved October 26, 2011), effective December 25, 2011.
  10. Added, Bill No. 110498 (approved October 26, 2011), effective December 25, 2011.
  11. Added, Bill No. 110498 (approved October 26, 2011), effective December 25, 2011.
  12. Added, Bill No. 110498 (approved October 26, 2011), effective December 25, 2011.
  13. Renumbered, Bill No. 110498 (approved October 26, 2011), effective December 25, 2011.
  14. Added, 1962 Ordinances, p. 89.
  15. Added, 1962 Ordinances, p. 89; amended, Bill No. 758 (approved July 24, 1995), 1995 Ordinances, p. 1081.
  16. Added, 1979 Ordinances, p. 1323, superseded insofar as applicable to condominiums by “The Uniform Condominium Act”, 1980, July 2, P.L. 286, No. 82, 68 Pa. C.S. §§ 3101 et seq., effective 120 days after enactment; amended, 1979 Ordinances, p. 2059.
  17. Added, 1979 Ordinances, p. 2059.
  18. Added, 1979 Ordinances, p. 2059.
  19. Added, 1979 Ordinances, p. 2059.
  20. Amended, Bill No. 758 (approved July 24, 1995), 1995 Ordinances, p. 1081.
  21. Added, 1979 Ordinances, p. 2059.
  22. Amended, 1979 Ordinances, p. 2059.