

ORDINANCE 8462

AN ORDINANCE AMENDING CHAPTER 3-20, "RENTAL LICENSE EXCISE TAX," AND CHAPTER 12-2, "LANDLORD – TENANT RELATIONS," B.R.C 1981, MAKING CHANGES TO IMPLEMENT THE PROVISIONS RELATED TO EVICTION PREVENTION AND RENTAL ASSISTANCE SERVICES; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
COLORADO:

Section 1. Chapter 3-20, "Rental License Excise Tax," B.R.C. 1981, is amended to read as follows:

Chapter 20 – Rental License Excise Tax.

3-20-1. - Findings and Purpose.

An excise tax on each dwelling unit that is not exempt from the rental license requirement will be used to fund legal representation for persons that may be subject to an eviction proceeding and to provide funding for rental assistance for persons that may be facing an eviction or need emergency rental assistance.

3-20-2. - Imposition and Rate of Tax.

There is levied and shall be paid and collected an excise tax of \$75 per year for each dwelling unit that is required go get a rental license by the city, unless it is exempt from the tax by Section 3-20-5, B.R.C. 1981.

3-20-3. - License holder Liable for Tax.

The rental license holder is responsible for payment of the tax.

3-20-4. - Definitions.

The definitions in Chapter 12-2, "Landlord-Tenant Relations, No Eviction Without Representation," B.R.C. 1981, shall apply to this chapter.

3-20-5. - Exemptions.

The tax imposed by this chapter shall not apply to any rental license if associated with

any dwelling unit that is exempt from a rental license in Section 10-3-2, B.R.C. 1981, exempt from the rental license fee in Subsection 10-3-12(d), B.R.C. 1981, or to a unit that is certified by the city manager as an affordable rental unit.

3-20-6. - Dedicated Revenues.

The revenues from this sales tax shall be designated for the administrative cost of the tax, and once that obligation has been fulfilled, used for implementation and administration and enforcement of a program to provide representation to tenants who face the loss of housing in eviction and administrative proceedings, to provide a Tenant's Legal Services and Assistance Coordinator to administer the program; to create a tenants' committee comprised of five members paid a \$1,000 per year stipend; and to pay any related expenses; to pay costs associated with approaches to mediation or other alternative dispute resolution methods; and to use funding for rental assistance and associated services for persons that are vulnerable to eviction.

3-20-7. - Tax Increase.

The city council is authorized to increase the annual excise tax rate by an amount not to exceed the Colorado consumer price index or a similar index that is tied to the annual rate of inflation in the state or Denver metropolitan area.

3-20-8. - Tax Collection.

The city manager is authorized to arrange for other entities to collect the tax that is required by this section.

Section 2. The title to Chapter 12-2, "No Evictions Without Representation," B.R.C. 1981, is amended to read as follows:

Chapter 2 - Landlord - Tenant Relations, ~~No Evictions Without Representation~~ Eviction Prevention and Rental Assistance Services

Section 3. Section 12-2-1, "Legislative Intent," B.R.C. 1981, is amended to read as follows:

The purpose and intent of this chapter is to supplement the provisions of state law governing the rights and duties of landlords and tenants of residential property in the City, including without limitation the following:

- (a) requirements related to the provision of leases to residential tenants;
- (b) disclosure and other requirements that landlords are required to provide to residential tenants in leases;
- (c) requirements related to the ownership of security deposits and payment of interest;

1 (d) the provision of legal representation and rental assistance to tenants in legal and
2 administrative proceedings where such housing is imperiled;

3 ~~Whereas, in the landmark case Gideon v. Wainwright, the United States Supreme Court~~
4 ~~declared that reason, reflection, and the fair administration of justice require that persons facing~~
5 ~~the loss of their liberty in criminal proceedings shall have the right to legal counsel;~~

6 ~~Whereas, this protection does not extend to legal proceedings where tenants face the~~
7 ~~serious hardship of being forced out of their homes;~~

8 ~~Whereas in the City of Boulder, tenants do not have a right to counsel in such~~
9 ~~proceedings and most tenants face such proceedings without legal representation;~~

10 ~~Whereas, in August of 2017 the City of New York enacted local legislation to provide~~
11 ~~tenants in that City with legal representation in eviction proceedings;~~

12 ~~Whereas, in 2018-2019 the cities of San Francisco, Newark, Cleveland, and Philadelphia~~
13 ~~also enacted legislation to provide tenants in those cities with legal representation in eviction~~
14 ~~proceedings; and~~

15 (e) describing the programs that can be used to provide rental assistance to persons
16 that may be vulnerable to eviction;~~Whereas, in some instances the provision of~~
17 ~~rental assistance to tenants is an efficacious tool to increasing housing security.~~

18 (f) describing the~~Therefore the people of the City of Boulder declare that it is in the~~
19 ~~policy of the City of Boulder that Boulder tenants shall have a right to legal~~
20 ~~representation in eviction and administrative proceedings where they face the~~
21 ~~loss of housing;~~

22 (g) setting minimum standards for~~and the City shall to provide such representation~~
23 ~~to tenants to assist in the fair administration of justice; and the City shall also~~

24 (h) setting minimum standards for the administration of~~administer a rental~~
25 ~~assistance program to tenants faced with such proceedings;~~

26 (i) implementing the programs that are described in the ballot question approved by
27 the voters in the November 3, 2020 election and further described in Ordinance
28 8412; and

29 (j) establishing standards and criteria for the development of programs that are
30 intended to provide assistance in all aspects and costs associated with the
31 prevention of evictions, including the costs of dispute resolution and the costs of
32 representing tenants that may face eviction.

1 Section 4. Section 12-2-2, “Definitions,” B.R.C. 1981, is amended to read as follows:

2 The following terms used in this chapter have the following meanings unless the
3 context clearly indicates otherwise:

4 . . .

5 *Covered proceeding* means legal proceedings to evict a tenant from their place of
6 residence pursuant to C.R.S. 13-40-101 et seq., counterclaims related thereto, the termination
7 of Section 8 housing assistance, any related proceeding to assist a tenant to remain housed, and
8 appeals arising from any of the foregoing.

7 . . .

8 Section 5. Section 12-2-9, “No Evictions Without Representation,” B.R.C. 1981, is
9 amended to read as follows:

10 **12-2-9 - No Evictions Without Representation****Eviction Prevention and Rental Assistance**
11 **Services.**

12 (a) Provision of Legal Representation and Rental Assistance. The City of Boulder shall
13 establish, run, and fully fund a program to provide legal representation and/or rental
14 assistance for all tenants within the city who face a covered proceeding.

15 (1) This legal representation ~~shall be~~ is available to a tenant threatened with an action
16 that may result in an eviction or immediately after the tenant is served with a
17 notice to quit, demand for compliance, or demand for possession pursuant to
18 C.R.S. § 13-40-101, et seq., C.R.S. § 38-12-202, et. seq. or a notice of
19 termination of Section 8 housing assistance, and shall last at least until such
20 time as the notice to quit, demand for possession, or unlawful detainer
21 complaint is withdrawn, the case is dismissed, a final judgment in the matter is
22 entered, or the Section 8 housing assistance termination proceedings are
23 concluded. The legal representation may also include an action to suppress
24 records of a prior eviction proceeding. The city manager may adopt criteria and
25 standards related to the screening of clients, or otherwise, to provide legal
representation in order to implement the requirements of this chapter.

21 (2) Written notification of this right to legal representation and how to access it
22 must be provided by the landlord to a tenant ~~at the time the right to legal~~
23 ~~representation attaches as described under this section along with the notice to~~
24 quit or demand for compliance or possession pursuant to C.R.S. § 13-40-101, et
25 seq., C.R.S. § 38-12-202, et. seq. or a notice of termination of Section 8 housing
assistance. The notice must be in the same form as required by Section 12-2-
4(a)(1)(I), B.R.C. 1981.

- 1 (b) Implementation. The city manager shall promptly take all necessary steps to fully
2 implement the provisions of this section as soon as practicable, but not more than
3 twelve months after the effective date of this chapter. The City shall have no obligation
4 to provide legal services under this section where a state or federal program provides
5 full scope legal representation to a tenant facing eviction proceedings as a matter of
6 right.
- 7 (c) Tenants' Committee. A tenants' committee is created to ensure that the legislative
8 intent of this section is fulfilled. Specifically, the tenants' committee ~~shall oversee the~~
9 ~~tenants' will advise the~~ legal services and assistance coordinator and the legal service
10 providers engaged to provide the services and administer the rental assistance program
11 provided for herein, and ~~shall will~~ advise the city manager on its opinion of the merit
12 and fitness of the tenants' legal services and assistance coordinator for the purpose of
13 informing and guiding the city manager in appointing and retaining the tenants' legal
14 services and assistance coordinator. The tenants' committee shall consist of five
15 members who are tenants in the City of Boulder and do not own real property. The City
16 shall endeavor to ensure that the committee membership is reflective of the racial,
17 gender, and sexual orientation of the City's tenants. Committee members shall be
18 disqualified and replaced as soon as practicable in the event that they cease to be
19 qualified to serve on the committee. Committee members are to be paid a stipend of
20 \$1,000 per year to be adjusted annually for inflation. The city manager's office and city
21 attorney's office shall provide staff support to the committee and tenants' legal services
22 and assistance coordinator.
- 23 (d) Tenants' Legal Services and Assistance Coordinator. The tenants' legal services and
24 assistance coordinator shall serve at the pleasure of the city manager and can be
25 selected from the City of Boulder's internal staff. The tenants' legal services and
assistance coordinator shall be responsible for contracting with and supervising legal
service providers, including but not limited to non-profits, private law firms, and
private attorneys, to ensure the provision of the legal representation provided for herein
and the day-to-day responsibilities related thereto. The tenants' legal services and
assistance coordinator shall also be responsible for administering a rental assistance
program for tenants involved in a covered proceeding. The tenants' legal services and
assistance coordinator may partner with non-profit organizations to facilitate the rental
assistance program as well if it serves the purpose of maximizing the efficacy and reach
of the rental assistance program. The tenants' legal services and assistance coordinator
shall make its best efforts to allocate and facilitate the provision of legal representation
and/or rental assistance to tenants in covered proceedings to maximize the housing
security of said tenants. The tenants' legal services and assistance coordinator shall
keep the tenants' committee informed as to its fulfillment of its responsibilities and shall
be responsive to requests for information and inquiries from the tenants' committee.
- (e) Reporting. No later than September 1, 2021 and annually by each September 1
thereafter, the tenants' legal service and assistance coordinator shall submit to the
mayor, and city manager, and post online, a review of the program established pursuant

to this section and information regarding its implementation, to the extent such information is available, including, but not limited to:

(1) The estimated number of individuals who experienced a covered proceeding;

(2) The number of individuals who received legal representation and/or rental assistance disaggregated by the following characteristics of such individuals:

(A) Postal code of residence;

(B) Age of head of household;

(C) Household size;

(D) Estimated length of tenancy;

(E) Approximate household income;

(F) Receipt of ongoing public assistance at the time such legal services were initiated;

(G) Tenancy in rent-regulated housing; and

(H) Tenancy in housing operated by the Boulder City Housing Authority.

(3) Outcomes immediately following the provision of full legal representation, as applicable and available, including, but not limited to, the number of:

(A) Case dispositions where a case was dismissed or was otherwise decided substantially in favor of the tenant;

(B) Case dispositions where judgment for possession in favor of landlord was entered;

(C) Case dispositions where a stipulation agreement, or other similar agreement, was made preventing the entry of judgment for possession;

(D) Case dispositions where a stipulation agreement, or other similar agreement, was made providing a tenant with an opportunity to vacate a judgement for possession at a later date;

(E) Case dispositions where a tenant was required to vacate a residence, but was provided additional time to vacate and, in such cases, the amount of additional time provided to such tenants;

(F) Case dispositions that otherwise resulted in a tenant vacating a residence prior to the end of their lease term; and

(G) Instances where the attorney was discharged or withdrew.

(4) Orders for possession filed in county court, writs of restitution issued in county court in forcible entry and detainer proceedings, and residential evictions conducted by the county sheriff.

(f) Funding. The spending obligations required by this section are to be funded through the no eviction without representation by the tax levied pursuant to Chapter 3-20 "Rental License Excise Tax," B.R.C. 1981.

(g) Amendment and Rulemaking. The Boulder City Council may amend this section, and the city manager may supplement the provisions of this section through rulemaking, if such amendment or rulemaking serves the purpose of ensuring and effectuating the

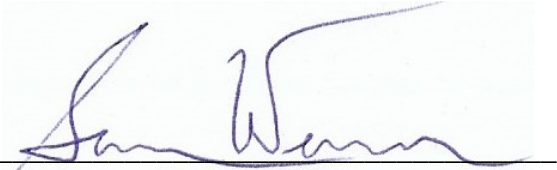
1 provision of legal representation and/or rental assistance to tenants faced with legal
2 proceedings imperiling their homes.

- 3 (h) Severability. If any provision of this section or any application thereof to any person or
4 circumstance is held invalid, such invalidity shall not affect any provision or
5 application of this section that can be given effect without the invalid provision or
6 application. To this end, the provisions of this section are severable.

7 Section 6. This ordinance is necessary to protect the public health, safety, and welfare of
8 the residents of the city and covers matters of local concern.

9 Section 7. The city council deems it appropriate that this ordinance be published by title
10 only and orders that copies of this ordinance be made available in the office of the city clerk for
11 public inspection and acquisition.

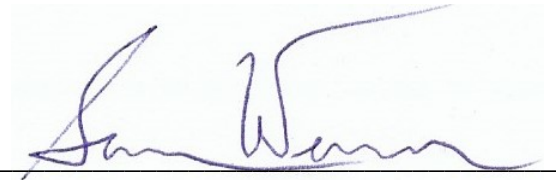
12 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
13 TITLE ONLY this 1st day of June 2021.

14 
15 Sam Weaver, Mayor

16 Attest:

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18 Elesha M. Johnson, City Clerk
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1 READ ON SECOND READING, PASSED AND ADOPTED this 15th day of June 2021.

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Sam Weaver, Mayor

6 Attest:

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Elesha M. Johnson, City Clerk