



# Seattle Office for Civil Rights

## Source of Income Protections, Seattle’s Open Housing Ordinance, SMC 14.08 Frequently Asked Questions

For over 25 years, discrimination against a person who uses a Section 8 voucher to pay for rental housing has been illegal. On September 19, 2016, new protections went into effect that expanded fair housing protections for renters who use different sources of income other than wages or who use subsidies to pay for housing costs. These new protections were added to Seattle’s Open Housing Ordinance, Seattle Municipal Code (SMC) 14.08.

The Seattle Office for Civil Rights (SOCR) is responsible for administering and enforcing this ordinance. SOCR also provides technical assistance to rental housing providers.

This Frequently Asked Questions (FAQ) document addresses some of the most common questions about Seattle’s new Source of Income protections (Seattle Municipal Code 14.08). If you have a question that is not covered by this FAQ, please contact SOCR at (206) 684-4500 or e-mail us at [discrimination@seattle.gov](mailto:discrimination@seattle.gov).

**IMPORTANT NOTE:** This FAQ should not be used as a substitute for codes and regulations. The reader is responsible for compliance with all code and rule requirements.

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## **A. OVERVIEW OF THE PROTECTIONS**

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The following questions and answers provide an overview of the new protections, including the date they become effective.

### **1. What do these protections do?**

The protections:

- Prohibit discrimination against renters who use subsidies or alternative sources of income to pay for housing;
- Require landlords to cooperate with subsidy programs and accept pledges of payment from subsidy programs under some circumstances;
- Set new requirements when a landlord uses income screening criteria, such as rent to income ratios; and
- Prohibit preferred employer programs.

### **2. When did these protections go into effect?**

The protections went into effect on **September 19, 2016**.

## **B. PARTICIPATION IN A SECTION 8 OR SUBSIDY PROGRAM**

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The ordinance prohibits discrimination against renters who use subsidies to pay for housing. The following questions and answers address what is considered a subsidy under the ordinance.

### **3. What was changed in the definition of “Section 8” as a protected class?**

Prior to September 19, 2016, the Seattle Municipal Code provided protections against discrimination for individuals who participated in a “Section 8 program.” This included participation in any federal, state, local government program that paid all or part of a tenant’s rent through a contract between the program and the owner/lessor of the property.

After September 19, 2016, that definition has been expanded to include any **short or long term** subsidy program offered by a government program, a private nonprofit, or any other assistance program that pays all or part of a tenant’s rent through a direct arrangement between the program and the owner/lessor of the property. These additional kinds of subsidy programs can include the Housing Choice Voucher Program (Section 8) vouchers, U.S. Housing and Urban Development-Veteran Affairs Supportive Housing (VASH) vouchers, Housing and Essential Needs (HEN) funds, and short-term rental assistance provided by Rapid Rehousing subsidies.

### **4. Is the use of a short-term subsidy protected?**

Yes. Discrimination against a person who uses a short-term subsidy is illegal. A landlord cannot refuse to rent and cannot offer different terms to a person who uses a short-term subsidy to pay for housing.

## **C. PROTECTIONS FOR USING ALTERNATIVE SOURCES OF INCOME**

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The ordinance prohibits discrimination against renters who use alternative sources of income to pay for housing. The following questions and answers explore what is an alternative source of income and the new requirements.

**5. What is an “alternative source of income”?**

Alternative sources of income include any lawful, verifiable income that comes from sources other than employment. This includes monies from Social Security benefits, unemployment benefits, retirement programs, child support, the Aged, Blind, or Disabled Case Assistance Program, Refugee Cash Assistance, or any federal, state, local government, private, or nonprofit administered benefit program.

**6. What are the Ordinance’s requirements regarding “alternative sources of income” used for payment of housing costs?**

The Ordinance prohibits a landlord from denying a person housing or offering different terms to a person because of the source of income a person uses to pay for housing. The new protections protect a tenant’s use of alternative sources of income to pay for housing and requires that alternative sources of income be included when landlords calculate income criteria in their tenant screening process.

**7. The definition of alternative source of income means lawful, verifiable income from sources other than employment. What does “verifiable” mean?**

Verifiable means that the amount of the income can be proven or the fact that it was received can be proven. An applicant must have written documentation that shows either the amount of income or that the income has been received. The written documentation must also name the source of the income. For example, an award letter from the Employment Security Department that shows the weekly/monthly benefit amount for unemployment insurance is considered “verifiable.”

An applicant can provide multiple documents that together identify the source of income and its amount or that it was received. If an applicant provides more than one document, only one of the documents needs to identify the source of income.

**8. Must applicants provide original copies of the written documentation?**

No. The documents do not have to be original copies. As a best practice, an applicant should ensure that original copies are available upon request and that copies are legible.

**9. Is there a time limit on how long a landlord has to verify an applicant’s income?**

No. The ordinance does not place a specific time requirement on how much time a landlord has to verify income.

## **D. REQUIREMENTS CONCERNING INCOME SCREENING CRITERIA**

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The ordinance does not prohibit landlords from applying income screening criteria in their application processes. However, landlords are required to subtract subsidy amounts from the total amount of monthly rent and include all sources of income, including alternative sources, when calculating an applicant's income. The following questions and answers explore these requirements in more detail.

### **10. Does the Ordinance prohibit landlords from having income screening criteria?**

The Ordinance does not prohibit a landlord from applying income screening criteria. However, if the landlord does require the applicant to have a certain income to qualify for housing, the landlord must (1) subtract any payment from a Section 8 or other subsidy program from the total monthly rent (to reduce the amount of rent that the tenant would pay out of pocket); and (2) include all sources of income in the tenant's total income when calculating income screening criteria for any tenant. Two examples of this process are illustrated in the Appendix on Page 8 of this FAQ. The examples illustrate the use of a three to one income ratio (the applicant's income must equal three times the month rent).

### **11. What is an "income to rent" ratio?**

An income to rent ratio is one type of income screening criteria used by landlords to determine eligibility for housing. For example, a landlord may require specific rent to income ratio to determine if a tenant has the income to pay their rent and other monthly costs, such as a three to one rent to income ratio. This means that a tenant's income must equal three times the cost of the tenant's portion of the monthly rent.

### **12. May a landlord calculate a short-term subsidy over a longer period than the subsidy's length? For instance, if an applicant has a 90-day voucher, may the landlord calculate the three-month income over the 12-month lease?**

No. A landlord may not apply a short-term subsidy to a period that is longer than the monthly amount of the subsidy. The landlord must apply the monthly amount of the subsidy to the monthly rent. For example, if an applicant has a voucher that is \$300/month for three months, the ordinance requires the landlord to subtract the subsidy (\$300) from the total monthly rent. This new amount is the new "rent" that should be used when calculating the income to rent ratio.

### **13. May a landlord offer a shorter lease to an applicant with a short-term subsidy?**

No. The Ordinance prohibits a landlord from either denying a person housing or offering different terms to a person because of the source of income a person uses to pay for housing costs, or because the person has a short-term subsidy. If the applicant's income-to-rent ratio qualifies them with use of the short-term subsidy during the subsidy's life, the landlord must offer a lease term that is consistent with terms offered to other tenants. The landlord cannot reject the applicant because the length of the subsidy is less than the initial term of the rental agreement. The landlord must assume the tenant will be able to continue to pay the rent after the short-term subsidy expires.

### **14. Can a landlord disregard alternative sources of income if it will over-qualify the applicant for the unit?**

All sources of income must be included as part of the applicant's total income except when the housing unit is subject to income or rent restrictions because the landlord entered a housing

regulatory agreement or subsidy agreement and the agreement dictates what is considered income.

## **E. COOPERATION WITH SUBSIDY PROGRAMS**

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The ordinance requires that landlords cooperate with applicants and tenants in submitting documentation and providing information to subsidy programs. The following section explores more details of this requirement.

**15. Must a landlord complete paperwork that is required by the applicant or tenant to qualify for a subsidy?**

Yes. Landlords must cooperate with current and prospective tenants by completing and submitting documentation/information required by a subsidy program. For example, this could include completing a form that confirms the amount of rent owed by the applicant or completing a Housing Assistance Payment Contract for a tenant with a Section 8 voucher.

## **F. PLEDGES**

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The ordinance now requires a landlord to accept a pledge from a subsidy program to pay for a tenant's past due or current housing costs. The ordinance outlines under what conditions a landlord must accept a pledge. The following questions and answers explore those conditions.

**16. Are landlords required to accept a pledge from a subsidy program for payment of a tenant's delinquent housing costs?**

Yes. The pledge must meet four requirements. If the pledge does not meet one of the requirements, a landlord is not required to accept it. First, the pledge in addition to any verifiable source of income and subsidy amount, must be large enough to make the tenant current on all housing costs owed by the tenant. Second, the pledge must be received prior to the expiration or issuance of a three-day or ten-day notice. Third, the pledge cannot commit the landlord to any additional conditions aside from providing information necessary to pay the pledge. Fourth, the subsidy program must commit to paying the pledge within five days.

**17. What action may a landlord take if the subsidy program does not pay the pledge within the promised five days?**

The ordinance does not regulate the issuance of three-day or ten-day notices and does not mention what steps a landlord can or cannot take if a subsidy program does not pay within the promised five days. In this situation, a landlord should seek out legal counsel about what steps to take.

**18. Must a landlord accept a pledge that is made after the expiration of a three-day notice to pay rent or vacate, a ten-day notice to pay rent or vacate, or a ten-day notice to comply with lease terms?**

No. The ordinance does not require a landlord to accept a pledge that is provided after the expiration of a three-day or ten-day notice. The ordinance only requires that pledges be accepted prior to issuing a three or ten-day notice or prior to the expiration of the three or ten-day notice.

## **G. PREFERRED EMPLOYER PROGRAMS**

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The ordinance prohibits preferred employer programs that offer incentives or different terms to applicants who work for a specific employer. The following questions and answers provide more information about preferred employer programs.

### **19. What is a preferred employer program?**

Preferred employer programs provide incentives (different terms) to applicants who work for specific employers, such as a lower monthly rent, a waiver of a deposit or fees, or access to free services.

Examples of preferred employer programs:

- Example 1: West End Apartments offers a \$200 lower deposit and waives application fees for employees of Roatan Boat Company.
- Example 2: Punta Gorda Condominiums offers \$50 lower rent and free use of its renovated gym facilities to employees of Sandy Bay Aquarium.

### **20. Are preferred employer programs prohibited?**

Yes. As of September 19, 2016, preferred employer programs are no longer allowed in the City of Seattle.

### **21. Does this new prohibition apply to rental agreements that were signed prior to September 19, 2016?**

No. If a tenant signed a lease prior to September 19, 2016, the tenant may enjoy the benefits of a preferred employer program until the tenant vacates the unit and the rental agreement is terminated.

### **22. Are there any exceptions to the prohibition on preferred employer programs?**

Yes. The definition excludes different terms or conditions given to applicants in:

- City-funded or other publicly funded housing for the benefit of City or public employees (employed by the City, State, or Federal government);
- Housing designated as employer housing which is owned or operated by an employer and leased for the benefit of its employees only; and
- Any program that affirmatively furthers fair housing.

### **23. What does “affirmatively further fair housing” mean?**

The ordinance defines this as doing one of the following without discrimination to persons based on their membership in a protected class:

- Assisting homeless persons or persons at risk of being homeless;
- Retention of affordable housing units in the City;
- Increasing the availability of permanent housing in standard condition and affordable cost to low-income or moderate-income families;
- Increasing the supply of supportive housing, which has both physical features and services needed to enable persons with special needs to live with dignity and independence; or
- Providing housing affordable to low-income persons accessible to job opportunities.

## H. ENFORCEMENT & REMEDIES

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The City of Seattle Office for Civil Rights (SOCR) enforces the Open Housing Ordinance. The following questions and answers explore how SOCR enforces the ordinance and what consequences there may be if a violation occurs.

### **24. Who enforces the ordinance?**

The Seattle Office for Civil Rights (SOCR), a department of the City of Seattle, is responsible for administering and enforcing the ordinance. SOCR also provides technical support to employers and employees. For more information, please call 206-684-4500 or visit [www.seattle.gov/civilrights](http://www.seattle.gov/civilrights).

### **25. What is SOCR's role in enforcing the Ordinance?**

SOCR ensures compliance by playing a neutral role during the filing, investigation, and resolution of claims. SOCR conducts fair and impartial investigations; SOCR does not provide legal advice or representation to employees or employers.

### **26. How are violations reported?**

An individual who believes that they have been subject to a violation of the ordinance should contact SOCR at 206-684-4500 or submit an electronic complaint at <http://www.seattle.gov/civilrights/file-complaint>. An intake investigator will contact the individual to determine whether a complaint can be investigated. Our services are free and impartial, and language and disability accommodations are available upon request.

### **27. How is this ordinance enforced?**

If an individual believes that there has been a violation of the ordinance, the individual may contact SOCR to file a complaint. If the complaint is accepted, SOCR will open an investigation and gather evidence from the parties and other witnesses. After collecting all the relevant evidence, SOCR will determine whether the evidence shows a violation. If the evidence does not show a violation, SOCR will close the complaint. If SOCR finds evidence to show a violation, SOCR will work with the parties to resolve the issue. During this process, both parties may voluntarily settle the complaint if they agree to do so. For more information about this process, visit SOCR's website at <http://www.seattle.gov/civilrights>.

### **28. What happens if a housing provider violates the ordinance?**

If SOCR determines that a violation of the Open Housing Ordinance has been committed, remedies may include, but are not limited to, the elimination of the unfair practice, rent refunds or credits, reinstatement to tenancy, affirmative recruiting or advertising measures, payment of actual damages, damages for the loss of the right to be free from discrimination in real estate transactions, and reasonable attorney's fees or costs, or other remedies that would be ordered by a court. Civil penalties are also allowed under the ordinance.

I. APPENDIX – QUESTION 10

# Income Screening Examples

in 3:1 ratio screening, subsidies must be subtracted from monthly rent.



required income is calculated as 3x the tenant's portion of rent.



all verifiable sources of income MUST be included in the calculation.

## 1 Applicant meets screening criteria.



state assistance	\$332/MONTH
<hr style="border-top: 1px dashed black;"/>	
+ employment	\$600/MONTH
<hr style="border-top: 1px dashed black;"/>	
total income	\$992/MONTH



monthly rent	\$1200/MONTH
<hr style="border-top: 1px dashed black;"/>	
- subsidy	\$949/MONTH
<hr style="border-top: 1px dashed black;"/>	
tenant portion	\$251/MONTH

required income  
=  
tenant portion X 3

total income =	\$992/MONTH
required income =	\$753/MONTH
<hr style="border-top: 1px dashed black;"/>	
balance =	\$239/MONTH
QUALIFIES	

## 2 Applicant does not meet screening criteria.



child support	\$200/MONTH
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total income	\$200/MONTH



monthly rent	\$1200/MONTH
<hr style="border-top: 1px dashed black;"/>	
- subsidy	\$949/MONTH
<hr style="border-top: 1px dashed black;"/>	
tenant portion	\$251/MONTH

required income  
=  
tenant portion X 3

total income =	\$200/MONTH
required income =	\$753/MONTH
<hr style="border-top: 1px dashed black;"/>	
balance =	-\$553/MONTH
DOES NOT QUALIFY	