

ORDINANCE NO. C-36366

An ordinance relating to landlord tenant regulations; adopting new sections 10.57.080, 10.57.090, 10.57.100, 10.57.110, 10.57.120, 10.57.130, and 10.57.140 to chapter 10.57; and enacting new sections 07.08.157 and 07.08.158 of the Spokane Municipal Code.

WHEREAS, the City of Spokane desires to reduce the costs of background checks to tenants by supplying portable background checks at no cost to the landlord; and

WHEREAS, the City of Spokane desires to utilize funds authorized under SMC Section 08.07C to fund the housing related services of tenant relocation and legal services for qualified tenants; and

WHEREAS, current Washington law does not provide a civil remedy to violations of residential rental unit regulations in municipal court other than for issues of habitability and therefore the only reasonable legal remedy for many provisions in the Spokane Municipal Code is a private right of action, a private right of action is created for specified violations of the residential rental code; and

WHEREAS, the City of Spokane desires to utilize funds under SMC Section 08.07C to fund the housing related services of rental property damage mitigation for those landlords that work with programs that provide housing support to low income individuals.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That there are adopted new sections to chapter 10.57 of the Spokane Municipal Code to read as follows:

SMC 10.57.080	Portable Background and Credit Checks
SMC 10.57.090	Residential Rental Property Mitigation Program
SMC 10.57.100	Legal Services and Relocation Program
SMC 10.57.110	Landlord Walkthroughs and Inspections
SMC 10.57.120	Disclosures
SMC 10.57.130	Anti-Retaliation Protections
SMC 10.57.140	Private Right of Action

Section 10.57.080 Portable Background and Credit Checks

A. Purpose and Intent.

1. The screening of a prospective tenant's rental history, financial history, and criminal background is a common aspect of renting residential real property and provides an important benefit to both landlords and tenants.

2. While tenants usually pay a fee associated with this screening each time they apply for a unit, state law requires that fees collected can only cover the actual cost of screenings performed. Multiple applications for rental housing currently require prospective tenants to pay multiple fees which can be burdensome to prospective tenants, especially in a tight rental market.
3. The intent of this section is consistent with RCW 59.18.257 to support landlords getting the data they need to make an informed decision about a prospective tenant at no cost to the landlord and in compliance with state law, while ensuring that prospective tenants are not unduly burdened by the need to pay multiple background and credit check fees.

B. Portable background and credit checks program.

1. The City of Spokane's department of Code Enforcement is authorized to publish a request for qualifications ("RFQ") from consumer reporting agencies that have the capability to provide certified portable background and credit checks.
2. The content of the background and credit report must comply with state and federal laws and housing requirements, including guidance from the federal government on criminal background checks, and would be decided by the Spokane City Council upon the recommendation of an advisory group that must include representatives from landlord, tenant and social services housing organizations.
3. All portable background and credit checks conducted under this section shall be valid for at least ninety (90) days from the date of issuance.
4. The City of Spokane and its agents shall have no right to access the information included in a portable background check unless provided to them by the prospective tenant subject of the report.
5. Prospective tenants are responsible for paying the fee for the creation of the portable background and credit check and landlords cannot be charged for it. Landlords cannot charge tenants an additional fee for accessing the check.
6. Landlords that accept a portable background check pursuant to RCW 59.18.257(1)(iv) may not charge a tenant for a second background and credit screening service.
7. Nothing in this section restricts a landlord from asking a prospective tenant about their criminal, credit or rental history, or making a decision on whether or not to rent to an individual based on that history.

Section 10.57.090 Residential Rental Property Mitigation Program.

- A. The department of Community, Housing and Human Services is authorized to operate a rental property mitigation program, which is intended to assist in the repair of residential rental properties that are damaged during a tenancy and where damage occurs through no fault of the landlord.
- B. The City's fund will be supplemental to any similar state or federal program, and will only be used after the applicant has completed a timely and complete application for those funds, exhausted the tenant's damage deposit, and still has not been fully compensated for the damage.
- C. The department of Community, Housing and Human Services is authorized to establish public rules for the operation of the rental property mitigation fund, and shall publish and accept public comment on such rules for sixty (60) days prior to the effective date of the rules for the program.
- D. Landlords applying for funding from the rental property mitigation fund must meet the criteria established by the Community, Housing and Human Services department pursuant to subsection (C) of this section. Within a calendar year, disbursement of such funds shall prioritize assistance to landlords where a government, nonprofit operated program, or privately operated program under government contract that provides housing support to low income individuals referred the tenant to the landlord or provided a portion of their rent or damage deposit, with remaining funding disbursed to all other qualifying applicants thereafter.
- E. The City may contract with another entity to administer its Residential Rental Property Mitigation Program.

Section 10.57.100 Legal Services and Relocation Program

- A. City of Spokane is authorized to use monies from the Legal Services and Relocation Fund to contract with another entity to provide attorney services for landlord and tenant legal services and mediation costs, with a focus on habitability and violations of the Chapter 59.18 RCW - Residential Landlord Tenant Act ("RLTA"). The city investment would provide seed money for first year of salary and benefits for an attorney and reasonable litigation costs, including mediation fees. Legal fees from successful representation would be used to sustain the attorney(s) and associated costs for the long term.
- B. The City is further authorized to disburse monies from the Legal Services and Relocation Fund to provide immediate relocation funds to tenants living in rental units that are below the standards of habitability and likely to be able to recover

relocation funds from their landlord, which will reimburse the fund. The City is also authorized to disburse monies from the Legal Services and Relocation Fund to landlords to assist with tenant removal or relocation. The attorney described in Section A shall establish an application, review, and appeals process for the relocation fund program.

C. Minimum program requirements:

1. A program that focuses on pursuing legal remedies for rental housing units that clearly fall below standard of habitability defined in the Spokane Municipal Code and/or violate the RLTA in consultation with Code Enforcement.
2. A program that provides prompt relocation funds from City directly to the tenant once it appears to the attorney described in Section A that a landlord is more likely than not to be held liable under state law and then collects from the landlord and any settlement funds as first priority a reimbursement to the relocation funds advanced and any attorney fees that could be used to fund the attorney positions in the future.
3. A program that builds increased capacity for these services, including education and outreach.
4. Services provided under this section may only be provided to individuals from households with incomes less than 400% of the federal poverty level.

Section 10.57.110 Landlord Walkthroughs and Inspections

- A. Prior to any rental occupancy, the landlord or owner or manager of residential rental real property shall self-inspect the unit ensuring it meets the requirements of applicable building and housing codes impacting health, safety, and livability.
- B. The owner of residential rental real property shall make all necessary repairs to keep the premises in habitable condition as defined by the Spokane Municipal Code before a tenant may occupy the unit.
- C. Any entity or individual operating rental housing shall maintain all move-in and move-out inspection records for at least three years.
- D. Execution of any rental agreement shall act as certification by the landlord or owner or manager of residential rental real property that all relevant state and municipal building and housing codes impacting health, safety, and habitability are met.

Section 10.57.120 Disclosures

- A. Prior to entering into a lease or rental agreement, the landlord, owner or manager of residential rental real property must disclose to prospective tenants whether the unit has had a history of mold, any remediation, and whether the landlord has been informed by past tenants of any health concerns related to mold.
- B. The landlord or owner or manager of residential rental real property must disclose to tenants within ten (10) days when a unit they are renting is part of a building or parcel that has been listed for sale. In the event that the property is sold, the landlord or owner or manager of residential rental real property must provide all known contact information for the new owner(s) to the tenants.
- C. The landlord or owner or manager of residential rental real property must disclose any known history of methamphetamine manufacturing on the premises.

Section 10.57.130 Anti-Retaliation Protections

A. Purpose and Intent.

Due to fears of retaliation, tenants may fear speaking up about housing habitability issues or organizing as tenants. State law provides protection against retaliation, and the City of Spokane intends for its code to provide additional protections.

B. Prohibition on retaliation.

1. No landlord or owner or manager of residential rental real property in Spokane may intimidate any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise rights granted or protected by the fair housing laws, or engaging in political speech or political organizing.
2. No person may threaten any employee or agent with dismissal or an adverse employment action, or take such adverse employment action, for any effort to assist any person in the exercise of their fair housing rights.
3. For purposes of this section, “fair housing laws” and “fair housing rights” include the federal Fair Housing Act, the Washington Law Against Discrimination, and Title 18 of the Spokane Municipal Code.

Section 10.57.140 Private Right of Action

- A. Any person or class of persons who claim to have been injured by a violation of sections 10.57.020(H), 10.57.110, 10.57.120, or 10.57.130 may commence a civil action in Superior Court, not later than three (3) years after the occurrence of the alleged violation to obtain relief with respect to such violation. Upon prevailing, such aggrieved person may be awarded reasonable attorneys’ fees

and costs, and such other legal and equitable relief as appropriate to remedy the violation including, without limitation, the payment of compensatory damages, a penalty of up to \$500, and injunctive relief.

- B. If a landlord fails to comply with the requirements of sections 10.57.020(H), 10.57.110, 10.57.120, or 10.57.130 and such failure was not caused by the tenant, the tenant may terminate the rental agreement by written notice pursuant to law.

Section 2. That there is enacted a new section 07.08.157 of the Spokane Municipal Code to read as follows:

Section 07.08.157 Residential Rental Property Mitigation Fund

- A. There is established a special revenue fund entitled the “residential rental property mitigation fund” into which shall be paid 10% of fees from business registration that have at least one listed residential rental property.
- B. As provided in the annual budget, the “residential rental property mitigation fund” is appropriated to provide for payment of repairs of residential rental properties that are damaged during a tenancy where a government or nonprofit operated program, that provides housing support to low income individuals, referred the tenant to the landlord or provided a portion of their rent or damage deposit, and where damage occurs through no fault of the landlord. as established by SMC 10.57.080. The city council may also provide for additional revenues to be paid into such fund from time to time from any available funds of the City, including an initial investment of startup money.

Section 3. That there is enacted a new section 07.08.158 of the Spokane Municipal Code to read as follows:

Section 07.08.158 Legal Services and Relocation Fund

- A. There is established a special revenue fund entitled the “legal services and relocation fund” into which shall be paid two percent of all revenue collected pursuant to SMC 8.07C each year for five calendar years (2023-2027) to seed the fund and then it shall thereafter be maintained with 100% proceeds from substandard housing enforcement actions by the Legal Services and Relocation Program.
- B. As provided in the annual budget, the “legal services and relocation fund” is appropriated to provide for legal services and relocation funds arising out of rental units that fall below standards of habitability, as established by SMC 10.57.070. The city council may also provide for additional revenues to be paid into such fund from time to time from any available funds of the City.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date