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Overview of Spokane Municipal Code 10.57

- Starting January 1, 2024, Landlords and property managers operating in the city of Spokane will need a business license to operate. Cost is \$127.00.
 - Additionally, for every rental unit you own/operate in the city of Spokane, you will have pay a \$15.00 fee. You will also have to register the location of each unit.
 - The process will be through an online portal yet to be established.
- City of Spokane code enforcement will hire 3 additional officers to do “spot checks” on rentals along with complaint-based enforcement.
 - With the cooperation of the tenant, code enforcement can enter any of your rental units to assess “habitability.”
 - The first inspection is free, but if problems are found, future inspections will occur, and costs will be assessed.
 - Please refer to “Inspections” below for the full outline of the process and cost.
- New requirement for landlords/property managers to prepare move-in and move-out reports and maintain for 3 years.
 - Repair and certify that the property is habitable.
 - By entering a rental agreement, you will automatically be deemed as certifying habitability.
 - Disclosures
 - Disclose to tenant any mold issues and efforts to repair.
 - Disclose sale of the rental unit within 10 days.
 - Disclose whether methamphetamine has been manufactured in the rental unit.
- City of Spokane will require portable background checks of prospective tenants.
 - One stop shop for tenant to pay for a background check that any potential landlord can access.
 - Tenant pays for the background check.
 - Landlord cannot request another background check
 - Background check is valid for 90 days.
- Private Right of Action
 - Tenant may sue you for habitability and other issues which violate specific provisions of the Spokane Municipal Code.
 - A three year statute of limitations is imposed. Meaning a tenant can sue up to three years from when he/she alleges you violated the municipal code.
- Several agencies/programs are established to educate and/or take enforcement action against a landlord.

- Specifically, a legal services attorney is established to collect damage awards against landlords for violation of RCW 59.18 (Landlord-Tenant Act), and provisions of the Spokane Municipal Code governing landlords.
 - The money recovered in these lawsuits will be used to relocate tenants.
- Under the heading entitled “Business Licensing and Registration”, please refer to Paragraph “C.” I find the language vague and ambiguous. I am still in the process of analyzing the implication, but the nature of the paragraph suggests that a property management company may obtain a business license on behalf of the owner of the property being rented or presumably the owner/landlord will have to get a business license in and apart from, (in addition to), the business license maintained by the property management company.

The Purpose and Intent of the New Legislation

- Washington state law and the Spokane Municipal Code already require owners and operators of rental residential properties to secure a business license.
 - The City of Spokane intends to use the revenues from those license fees that would otherwise accrue to the general fund to support tenants and landlords in specific initiatives that will benefit landlords and tenants and increase the supply of habitable residential rental housing.
- The City intends to provide additional resources to Code Enforcement for dedicated inspectors to increase inspections regardless of complaints to identify and remedy unsafe and uninhabitable residential conditions regardless of a resident’s willingness to risk complaining.
 - The City further intends to provide resources to create a position of rental housing navigator to support landlords and tenants in resolving conflicts between each other and City administration in achieving the goals of this chapter.

Business Licensing and Registration

- Pursuant to Chapter 08.01 SMC, owning, renting, or leasing real property located in the City of Spokane constitutes engaging in business in the City and requires an annual business license and registration.
 - Beginning on January 1, 2024, no person shall make available for rent, or rent, lease, or let, to the public any residential housing unit without registering and maintaining registration of the residential rental property at which the unit is located.
- The annual fee for registering the business activity of renting residential real property shall be the standard annual fee of **\$127.00**.
 - **Plus an additional \$15 per residential rental unit per year.**
- Landlords offering below market cost rentals to low income tenants may seek a waiver of the \$15 annual fee by registering with the City’s affordable rental housing incentive program that will be developed by the Department of Community, Housing and Human Services.
- Application for a residential rental registration shall be made to the City through a web portal.

- The application shall include:
 - the applicable registration fee, including late fees if applicable
 - a declaration of compliance
 - list of individual residential rental units under the applicant’s ownership or control, including the street address of each unit
 - identification of whether the unit is offered at market rate or below market rate rent
 - whether the unit is occupied or unoccupied at the time of registration
- A property management company may apply for and secure the required business registration on behalf of a residential rental property owner.
- A residential rental registration expires on December 31st of the calendar year following registration or renewal.
- The residential rental registration **is transferable** to any person who has acquired ownership of a registered rental property for the unexpired portion of the one- year term for which it was issued.
- As a condition to the issuance and/or renewal of a residential rental registration, an applicant shall provide:
 - A valid declaration of compliance addressing each rental unit in the rental property prior to the issuance of a residential rental business registration.
 - **A declaration of compliance submitted under this chapter must state that each unit complies with the requirements and standards in RCW 59.18.060.**
- Property owners or their property managers shall provide each tenant a digital link to the website established pursuant to SMC 10.57.030(B) (YET TO BE ESTABLISHED) and if the tenant doesn’t have access to the internet advise them to call 311 for more information on tenant rights and responsibilities.

Residential Rental Housing Navigator

- The City of Spokane’s Department of Community, Housing and Human Services or the Office of Civil Rights will establish a housing navigator for landlords and tenants in the community.
 - This work would focus on education about resources for landlords and tenants seeking assistance with questions and complaints about complying with fair housing, habitability and other residential rental requirements.

Inspections

- The City of Spokane’s Code Enforcement Department may conduct periodic and cause-based inspections of all residential rental property that is subject to this chapter.
- Periodic inspections: Subject to the limitations in RCW 59.18.125, the Director of Code Enforcement or designee may periodically select from registered properties containing rental housing units the properties to be inspected by Code Enforcement as long as the tenant of the residence consents or a lawful court-ordered warrant for inspection is secured.

- In addition to periodic inspections, the Code Enforcement department is also authorized to conduct cause-based inspections, including those provided for under RCW 59.18.115.
- Code Enforcement will prioritize resources based on the level of safety sensitivity to be addressed by an inspection and available resources.
- No fees shall be assessed to landlords or tenants for the initial inspection authorized of this section.
- If a deficiency is discovered during the initial inspection conducted under paragraph (A)(1) of this section, Code Enforcement may schedule a second inspection to review for remedy of the deficiency and compliance.
- Upon second inspection, if the deficiency is not remedied, Code Enforcement may schedule subsequent deficiency inspections and assess fees against the residential rental unit's registrant for the additional safety inspections.
- Failure to pay assessed fees will bar renewal of a residential rental unit business registration.
- Code Enforcement may issue notices of violation and infraction pursuant to SMC 01.05.040 for residential rental units that do not comply with the standards set forth in SMC 17F.070.400.
 - Code enforcement may issue a complaint to the residential rental unit's registrant pursuant to SMC 17F.070.420 to proceed through a building official hearing pursuant to chapter 17F.070 SMC.
- A repeat offender is defined as:
 - The owner of residential rental unit(s) who has a confirmed non-compliance history, including any identical or similar violations of SMC 17F.070.400,
 - Existing Building and Conservation Code, at the same site or on a different tax parcel under the same ownership, two times within a 12-month period.
 - If an owner is found to be a repeat offender, they may be subject to a non-compliance fee of \$2,500 per violation that is not resolved by the compliance timeframe listed on the Code Enforcement Notice of Violation.

Appeals

- Appeals of registration denials, revocations, or suspensions; other final, written decisions or determinations made by the director; and the written findings of an inspection by a city building code enforcement officer relative to the application and interpretation of this code (i.e., decisions)
 - May be appealed to the hearing examiner by filing a notice of appeal at city of Spokane permit center and paying the applicable appeal fee within 14 days of issuance of the decision.
- Form of Notice of Appeal.
 - A person appealing a decision must pay the applicable appeal fee and submit a completed notice of appeal which sets forth:
 - The decision being appealed and the date it was issued;
 - Facts demonstrating that the person is adversely affected by the decision;
 - A statement identifying each alleged error in the decision;

- The specific relief requested; and
 - Any other information reasonably necessary to make a decision on the appeal.
- No suspension or revocation of a registration issued pursuant to the provision of this chapter shall take effect until 14 days after the mailing of the notice thereof by the department and,
 - if appeal is taken as herein prescribed, the suspension or revocation shall be stayed pending final action by the hearing examiner.
- The decision of the hearing examiner shall be final.
 - The owner and/or the department may seek review of the decision by the superior court of Washington in and for Spokane County within 21 days from the date of the decision.
 - If review is sought as herein prescribed, the suspension or revocation shall be stayed pending final action by the superior court.
- Upon revocation or suspension of any registration as provided in this chapter, no portion of the registration fee shall be refunded.

Multiple Businesses or Locations

- A single registrant that is in the business of renting multiple residential real property units in Spokane may register as a single business, but must list all residential units by street address separately.

Business Registrations/Business License

- The regular business registration basic fee is one hundred twenty-seven (\$127) per twelve-month period.
 - In addition to the basic registration fee, each business registrant must pay an additional fee of \$15 per unit per license.
- In addition to the basic registration fee, each business must pay an additional fee for each personnel, per license year, as follows (all personnel of a business are charged the same amount corresponding to the respective category of the total number of personnel defined below):
 - Businesses with fewer than six personnel in total: Ten dollars per person.
 - Businesses with six to ten personnel in total: Fifteen dollars per person.
 - Businesses with more than ten personnel in total: Twenty dollars per person.
- Whenever there is a change of ownership, the holder of the registration must notify the Washington State business licensing service within thirty days of such event. The new owner must file an application with the Washington State business licensing service to acquire a new registration.

Failure to Make Application

- If any registrant fails to file an application and to pay the registration fee, the City of Spokane taxes and licenses division or Code Enforcement department may determine the amount and issue a class I notice of infraction.

- Failure to comply with the residential rental registry requirement set forth in is a class I civil infraction, for which the City of Spokane taxes and licenses division or Code Enforcement department may issue a notice of infraction.

Portable background and credit checks program.

- The city of Spokane is establishing a “portable” background check for prospective tenants. This is essentially a one stop shop for the tenant to pay a single fee for a background check that can be accessed by multiple landlords. There is no cost to the landlord.
 - This means that the city will designate a single agency to do background and credit checks of prospective tenants and the respective report would be “portable”
 - All portable background and credit checks conducted under this section shall be valid for at least ninety (90) days from the date of issuance.
 - 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.
 - 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.
 - 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.

Residential Rental Property Mitigation Program.

- The city of Spokane is establishing a rental property mitigation program
 - The intent is 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.
 - 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. The criteria to apply is yet to be established.

Legal Services and Relocation Program

- A Legal Services and Relocation Fund will be established 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 will 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.

- A program that focuses on pursuing legal remedies for rental housing units that clearly fall below standard of habitability
- A program that provides prompt relocation funds from City directly to the tenant once it appears to the legal services attorney 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.

Landlord Walkthroughs and Inspections

- 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.
- 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.
- Any entity or individual operating rental housing shall maintain all move-in and move-out inspection records for at least three years.
- 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.

Disclosures

- 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.
- 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.
- The landlord or owner or manager of residential rental real property must disclose any known history of methamphetamine manufacturing on the premises.

Anti-Retaliation Protections

- Prohibition on retaliation.
 - 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.

- 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.
- 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.

Private Right of Action (Establishing a Basis for a Tenant to Sue)

- 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.
 - 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.

Residential Rental Property Mitigation Fund

- A “residential rental property mitigation fund” is established 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.