

**Agenda Sheet for City Council:****Committee:** Public Safety **Date:** 05/06/2024**Committee Agenda type:** Discussion**Date Rec'd**

4/26/2024

Clerk's File #

ORD C36523

Renews #**Cross Ref #****Council Meeting Date:** 05/20/2024**Submitting Dept**

MAYOR

Project #**Contact Name/Phone**

SARAH NUSS 509.435.7026

Bid #**Contact E-Mail**

SNUSS@SPOKANECITY.ORG

Requisition #**Agenda Item Type**

First Reading Ordinance

Council Sponsor(s)

BWILKERSON KKLITZKE

Agenda Item Name

HEAT HEALTH AND SAFETY ORDINANCE

Agenda Wording

Relating to residential properties and establishing cooling requirements. Amending sections 10.57.130 and 10.57.140 of the SMC and creating a new Section 10.57.170 of the SMC.

Summary (Background)

Given the frequency and severity of extreme weather events and wildfires affecting Spokane residents has increased and is expected to further increase, and that these impacts affect marginalized communities disproportionately, the regulations set forth in this amendment to Chapter 10.57 of the SMC will protect and promote the health, safety and welfare of Spokane residents.

Lease? NO

Grant related? NO

Public Works? NO

Fiscal Impact

Approved in Current Year Budget? N/A

Total Cost

\$

Current Year Cost

\$

Subsequent Year(s) Cost

\$

Narrative**Amount****Budget Account**

Select

\$

#

Select

\$

#

Select

\$

#

Select

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\$

#

\$

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Continuation of Wording, Summary, Approvals, and Distribution

Agenda Wording

Summary (Background)

Approvals

Dept Head

JONES, GARRETT

Division Director

Accounting Manager

BUSTOS, KIM

Legal

SCHOEDEL, ELIZABETH

For the Mayor

PICCOLO, MIKE

Additional Approvals

Distribution List

snuss@spokanecity.org

amcdaniel@spokanecity.org

Committee Agenda Sheet

Public Safety & Community Health Committee

Committee Date	May 6, 2024
Submitting Department	Emergency Management
Contact Name	Sarah Nuss
Contact Email & Phone	snuss@spokanecity.org 509.435.7026
Council Sponsor(s)	CP Wilkerson, CM Klitzke
Select Agenda Item Type	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion Time Requested: 10 minutes
Agenda Item Name	Heat Health & Safety Ordinance
Proposed Council Action	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
Summary (Background) *use the Fiscal Impact box below for relevant financial information	<p>This ordinance relates to residential rental properties and establishes cooling requirements, amending sections 10.57.130 and 10.57.140 of the Spokane Municipal Code, creating a new Section 10.57.170 of the Spokane Municipal Code.</p> <p>Given the frequency and severity of extreme weather events and wildfires affecting Spokane residents has increased and is expected to further increase, and that these impacts affect marginalized communities disproportionately, the regulations set forth in this amendment to Chapter 10.57 of the SMC will protect and promote the health, safety and welfare of Spokane residents.</p>
<p>Fiscal Impact</p> <p>Approved in current year budget? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>Total Cost: Click or tap here to enter text.</p> <p> Current year cost:</p> <p> Subsequent year(s) cost:</p> <p>Narrative: Please provide financial due diligence review, as applicable, such as number and type of positions, grant match requirements, summary type details (personnel, maintenance and supplies, capital, revenue), impact on rates, fees, or future shared revenue</p> <p>Funding Source <input type="checkbox"/> One-time <input type="checkbox"/> Recurring <input checked="" type="checkbox"/> N/A</p> <p>Specify funding source: Select Funding Source*</p> <p>Is this funding source sustainable for future years, months, etc? Click or tap here to enter text.</p> <p>Expense Occurrence <input type="checkbox"/> One-time <input type="checkbox"/> Recurring <input checked="" type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<p>Operations Impacts (If N/A, please give a brief description as to why)</p> <ul style="list-style-type: none"> What impacts would the proposal have on historically excluded communities? <i>The proposed amendments provide protection for tenants from retaliation, establish a private right of action, and prevent a landlord from prohibiting or restricting a tenant from installing or using a portable cooling device as long as building codes, law and safety guidelines are followed.</i> 	

- How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?
- How will data be collected regarding the effectiveness of this program, policy, or product to ensure it is the right solution?
- Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

Council Subcommittee Review

- Please provide a summary of council subcommittee review. If not reviewed by a council subcommittee, please explain why not.

ORDINANCE NO. C36523

AN ORDINANCE relating to residential rental properties and establishing cooling requirements, amending sections 10.57.130 and 10.57.140 of the Spokane Municipal Code, creating a new Section 10.57.170 of the Spokane Municipal Code.

WHEREAS, the frequency and severity of extreme weather events and wildfires affecting Spokane residents has increased in recent years and is expected to increase further; and

WHEREAS, the impacts of extreme weather events such as cold snaps and heat domes have a disproportionate impact on historically marginalized communities; and

WHEREAS, at least nineteen people died and 300 people sought medical treatment for heat related illness because of extreme heat during the 2021 Northwest Heat Dome; and

WHEREAS, heating, cooling or air filtration technologies may increase electricity use and can impact the energy burden of low-income residential customers and residential customers who are members of environmental justice communities; and

WHEREAS, RCW 59.18.060(11)(a) prohibits a landlord from terminating a tenant's electric utility or water service for lack of payment on any day for which the national weather service has issued or has announced it intends to issue a heat-related alert; and

WHEREAS, the regulations set forth in this amendment to chapter 10.57 SMC augment state law and will protect and promote the health, safety, and welfare of Spokane residents.

NOW, THEREFORE, the City of Spokane does ordain:

Section 1. Section 10.57.130 of the Spokane Municipal Code is amended to read as follows:

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, practices relating to collection of past due rent, 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. Landlords are prohibited from retaliating against individuals for invoking their rights or protections under subsections 10.57.115, 10.57.116, ~~((and))~~ 10.57.160, and 10.57.170.
4. For purposes of this section, “fair housing laws” and “fair housing rights” include the federal Fair Housing Act, and the Washington Law Against Discrimination.

Section 2. Section 10.57.140 of the Spokane Municipal Code is amended to read as follows:

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, 10.57.130~~((or))~~ 10.57.160, or 10.57.170 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, 10.57.130, ~~((or))~~ 10.57.160, or 10.57.170. and such failure was not caused by the tenant, the tenant may terminate the rental agreement by written notice pursuant to law.

Section 3. There is enacted a new chapter 10.57.170 to Title 10 of the Spokane Municipal Code to read as follows:

10.57.170 Portable Cooling Devices

- A. For purposes of this section:
 1. An “extreme heat event” means a day on which National Weather Service of the National Oceanic and Atmospheric Administration has predicted or indicated that there exists a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert for

Spokane County.

2. A “portable cooling device” means air conditioners and evaporative coolers, including devices mounted in a window or that are designed to sit on the floor but not including devices whose installation or use requires alteration to the dwelling unit.
- B. During an extreme heat event, a landlord may not prohibit or restrict a tenant from installing or using a portable cooling device of the tenant’s choosing, unless:
1. The installation or use of the device would:
 - a. Violate building codes or state or federal law; or
 - b. Violate the device manufacture’s written safety guidelines for the device; or
 - c. Damage the premises or render the premises uninhabitable; or
 - d. Require amperage to power the device that cannot be accommodated by the power service to the building, dwelling unit or circuit; or
 - e. The device would be installed in a window, and:
 - i. The window is a necessary egress from the dwelling unit; or
 - ii. The device would interfere with the tenant’s ability to lock a window that is accessible from outside; or
 - iii. The device requires the use of brackets or other hardware that would damage or void the warranty of the window or frame, puncture the envelope of the building or otherwise cause significant damages; or
 - iv. The restrictions require that the device be adequately drained to prevent damage to the dwelling unit or building; or
 - v. The restrictions require that the device be installed in a manner that prevents risk of falling.
 2. In addition to subsection (B)(1) of this section, the landlord may also require that the device be:
 - a. Installed or removed by the landlord or landlord’s agent; or
 - b. Subject to inspection or servicing by the landlord or landlord’s agent; or
 - c. Removed from October 1 through April 30.

C. A landlord who must limit portable cooling devices for a building under subsection (B)(1)(d) of this section shall prioritize allowing the use of devices for individuals who require a device to accommodate a disability as defined by state and federal law. A landlord is not responsible for any interruption in electrical service that is not caused by the landlord, including interruptions caused by an electrical supply's inability to accommodate use of a portable cooling device.

D. If a tenant fails to comply with a restriction on the use of a portable cooling device under subsection (B) of this section, a landlord may issue notice to the tenant in accordance with RCW 59.18.160 and RCW 59.18.170.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 5. Clerical Errors. Upon approval by the city attorney, the city clerk is authorized to make necessary corrections to this ordinance, including scrivener's errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections.

PASSED by the City Council on _____

Council President

Attest:

Approved as to form:

City Clerk

City Attorney

Mayor

Date

Effective Date