



**Agenda Sheet for City Council Meeting of:**  
01/10/2022

<b>Date Rec'd</b>	12/15/2021
<b>Clerk's File #</b>	ORD C36164
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	
<b>Requisition #</b>	

<b>Submitting Dept</b>	CITY COUNCIL
<b>Contact Name/Phone</b>	BREEAN BEGGS 625-6254
<b>Contact E-Mail</b>	BBEGGS@SPOKANECITY.ORG
<b>Agenda Item Type</b>	Emergency Ordinance
<b>Agenda Item Name</b>	0320 - SPECIFYING RENTAL ASSISTANCE PROGRAM PARTICIPATION REQUIREMENTS

**Agenda Wording**  
An ordinance establishing requirements for participation in rental assistance programs; enacting a new chapter 18.08 of the Spokane Municipal Code; and declaring an emergency.

**Summary (Background)**  
Millions of dollars for rental assistance that has not yet been fully distributed in Spokane, leaving eligible tenants vulnerable to eviction solely because the funds have not yet been distributed. In addition, the state-wide moratorium on residential evictions concluded at the end of October, 2021. The Mayor declared a housing emergency, which requires the City to take extraordinary steps to ensure that everyone has, and can keep, housing that is available and affordable to them.

Lease? NO	Grant related? NO	Public Works? NO
<b>Fiscal Impact</b>		<b>Budget Account</b>
Neutral \$		#
Select \$		#
Select \$		#
Select \$		#

<b>Approvals</b>	<b>Council Notifications</b>
<b>Dept Head</b>	<b>Study Session/Other</b>
MCCLATCHEY, BRIAN	F&A Comm., 10/18/21
<b>Division Director</b>	<b>Council Sponsor</b>
	CP Beggs, CM Stratton, CM Wilkerson
<b>Finance</b>	<b>Distribution List</b>
<b>Legal</b>	
<b>For the Mayor</b>	
ORMSBY, MICHAEL	
<b>Additional Approvals</b>	
<b>Purchasing</b>	

PASSED BY  
SPOKANE CITY COUNCIL:  
1/10/2022  
*[Signature]*  
CITY CLERK

## ORDINANCE NO. C-36164

An ordinance establishing requirements for participation in rental assistance programs; enacting a new chapter 18.08 of the Spokane Municipal Code; and declaring an emergency.

**WHEREAS**, according to the U.S. Census American Community Survey's 2019 data, in Spokane, 56% of all housing units are priced at or below the median rent of \$1,098, and only 9% of all housing units rent for \$500 per month or less; and

**WHEREAS**, in Spokane, over 45% of renters are either cost-burdened (meaning they spend 30% or more of their income on rent) or extremely cost-burdened (meaning they spend 50% or more on rent); and

**WHEREAS**, nationwide, according to the Joint Center for Housing Studies at Harvard University, renters were more likely during the COVID-19 pandemic to lose employment than were homeowners, and Black and Hispanic renters are more likely to be cost-burdened or extremely cost-burdened; and

**WHEREAS**, renters with very low incomes and renters who have lost wages or employment during the COVID-19 pandemic are in a very vulnerable situation, as the perfect storm of historically low vacancy rates, a highly-constrained supply of rental housing that is affordable for people of very low incomes, potential back rent owed, the looming end of the eviction moratorium, and the high rate of cost-burdened renter households which pre-existed the COVID-19 pandemic create an extreme risk of housing instability; and

**WHEREAS**, housing instability from a variety of factors is a key driver of the increase in homelessness in Washington state, according to a recent report from the Washington Department of Commerce<sup>1</sup>, and increasing rents show a nearly linear correspondence to increased rate of homelessness; and

**WHEREAS**, the federal and state government have provided millions of dollars to the City of Spokane for the purpose of rental assistance that has not yet been fully distributed, leaving tenants who have applied for and are eligible for assistance vulnerable to eviction solely for the reason that the funds have not yet been distributed by the programs charged with distribution; and

**WHEREAS**, the City of Spokane has arranged to distribute over \$30 million in payments to local landlords, but the actual payments have been delayed for weeks and months after the initial applications putting otherwise law-abiding tenants who have otherwise been in compliance with their rental agreement at risk for eviction; and

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<sup>1</sup> "Homelessness in Washington State (2019)," Washington State Department of Commerce, available at: [https://www.commerce.wa.gov/wpcontent/uploads/2020/02/Homelessness-in-Washington-State\\_final.pdf](https://www.commerce.wa.gov/wpcontent/uploads/2020/02/Homelessness-in-Washington-State_final.pdf) (last reviewed Aug. 25, 2021).

**WHEREAS**, the Mayor has declared a city-wide housing emergency, and this emergency requires the City to take extraordinary steps to ensure that all our residents have, and keep, housing that is available to, and affordable for, them; and

**WHEREAS**, to address the confluence of these factors, the City Council determines that the City must take action now to protect renters who are receiving the benefit of housing assistance from the City, whether through direct payments or through rental assistance paid to a landlord, property owner, or property manager, to enable people of lower incomes to maintain housing stability, which is a key determinant of overall health, wellbeing, educational, and lifetime economic outcomes for children and families, to prevent homelessness, and to help mitigate the effects of the declared housing emergency.

**NOW THEREFORE**, the City of Spokane does ordain:

**Section 1.** That there is enacted a new chapter 18.08 of the Spokane Municipal Code to read as follows:

**Chapter 18.08 Rental Assistance Programs**  
**Section 18.08.010 Purpose and Intent**

This chapter is enacted to bridge gaps between the state Legislature's enactment of E2SSB 5160 and other Washington residential landlord tenant laws, and to reduce uncertainty for tenants and for landlords as the state implements post-COVID-19 long-term housing recovery strategies.

**Section 18.08.020 Definitions**

- A. "Customary and routine" means communication practices that were in place prior to March 18, 2020, but only to the extent that those communications reasonably notify a tenant of upcoming rent that is due; provide notice of community events, news, or updates; provide notice of availability of rental assistance or inquires as to whether a tenant has or is willing to seek rental assistance; document a lease violation; are related to negotiating a reasonable repayment plan or other program provided by E2SSB 5160; or are otherwise consistent with this chapter.
- B. "Landlord" includes, in addition to landlords, property managers and property owners.
- C. "Operational eviction resolution pilot program" means a program that complies with the provisions of Section 7 of E2SSB 5160, is located in Spokane County, is serving or is able to serve pilot program clients, and is in compliance with a standing judicial order(s) of the Spokane County Superior Court.
- D. "Operational rental assistance program" means a program located in Spokane County in which the rental property is located, is receiving or able to receive applications for rental assistance from eligible renters and landlords, and is currently disbursing or is able to disburse funds.

- E. "Reasonable repayment plan" has the same meaning as "reasonable schedule for repayment," as defined in Section 4 of E2SSB 5160, and means a repayment plan or schedule for unpaid rent that does not exceed monthly payments equal to one-third of the monthly rental charges during the period of accrued debt.
- F. "Rental assistance program" means financial assistance provided by the City of Spokane, whether derived from local funds or as a pass-through of state or federal funds or funds from any other source, to a landlord or to a tenant, to help defray the cost of past rent owed, future rent, relocation expenses, late fees, enforceable debt, damage mitigation costs, or any other costs incurred or owed by a tenant to a landlord and reimbursable from the rental assistance program, as particularly described in the specific program documents.

#### **Section 18.08.030 Past rent owed**

- A. If based in whole or in part on any arrears (rent owed) that accrued due to COVID-19 or the economic effects of the pandemic (such as, without limitation, loss or reduction of income in connection with COVID-19) from February 29, 2020 through July 31, 2021, landlords are prohibited from serving or enforcing, or threatening to serve or enforce, any notice requiring a tenant to vacate any dwelling, including but not limited to an eviction notice, notice to pay or vacate, unlawful detainer summons or complaint, notice of termination of rental, or notice to comply or vacate until both of the following conditions are met:
  - 1. a rental assistance program and an eviction resolution pilot program have been implemented and are operational in Spokane County; and
  - 2. a tenant has been provided with and has rejected or failed to respond within 14 days of receipt of such notice to an opportunity to participate in an operational rental assistance program and an operational eviction resolution pilot program.
- B. There is a presumption that any rent payment made on or after August 1, 2021, is applied to current rent before applying toward arrears.
- C. Each rental assistance program is authorized to share the application status of a tenant with the tenant's landlord.

#### **Section 18.08.040 Enforceable debt**

- A. If based in whole or in part on any arrears for a current tenant that accrued due to COVID-19 or the economic effects of the pandemic (such as, without limitation, loss or reduction of income in connection with COVID-19) from February 29, 2020 through July 31, 2021, landlords are prohibited from treating any unpaid rent or other charges related to a dwelling as an enforceable debt or obligation that is owing or collectable, where such nonpayment was, in whole or in part, a result of the COVID-19 crisis, until such time as the landlord and tenant have been provided with an opportunity to resolve nonpayment of rent through a rental assistance program and an eviction resolution pilot program.
- B. This prohibition includes attempts to collect, or threats to collect, independently or through a collection agency, by filing an unlawful detainer or other judicial action, by withholding any portion of a security deposit, by reporting to credit bureaus, or by any other means.

### **Section 18.08.050 Future rent owed**

- A. For rent accruing on August 1, 2021, or thereafter, it is the expectation that tenants will pay rent in full, negotiate a lesser amount or a payment plan with the tenant's landlord, or actively seek rental assistance if assistance is needed.
- B. Through December 31, 2022 for rent accruing on August 1, 2021, or thereafter, and unless an exception or other state law allows for eviction, landlords are prohibited from serving or enforcing, or threatening to serve or enforce, any notice requiring a tenant to vacate any dwelling, including but not limited to an eviction notice, notice to pay or vacate, unlawful detainer summons or complaint, notice of termination of rental, or notice to comply or vacate, if, unless otherwise permitted by this chapter, a tenant has:
  - 1. made full payment of rent;
  - 2. made a partial payment of rent based on their individual economic circumstances as negotiated with the landlord; or
  - 3. is participating in good faith in an eviction resolution program authorized under E2SSB 5160 and has a pending application for rental assistance that has not been fully processed and the landlord has notice of that application.
- C. There is a presumption that any rent payment made on or after August 1, 2021, is applied to current rent before applying toward arrears.
- D. A landlord is not required to accept partial payment of rent but is required to offer a tenant a reasonable repayment plan as defined in this chapter and in compliance with E2SSB 5160.
- E. A rental assistance program is authorized to share the application status of a tenant with the tenant's landlord and an eviction resolution pilot program authorized by E2SSB 5160.
- F. A landlord may serve a notice of unpaid rent regardless of the requirements of paragraph B of this section.

### **Section 18.08.060 Late fees**

From the effective date of this section through December 31, 2022, landlords are prohibited from assessing, or threatening to assess, late fees for the nonpayment or late payment of rent or other charges related to a dwelling where such nonpayment or late payment occurred due to COVID-19 or the economic effects of the pandemic (such as, without limitation, loss or reduction of income in connection with COVID-19) on or after February 29, 2020 through August 1, 2021.

### **Section 18.08.070 Written notice of resources and programs**

For rent owed that accrued due to COVID-19 or the economic effects of the pandemic (such as, without limitation, loss or reduction of income in connection with COVID-19) on or after February 29, 2020, landlords are prohibited from serving or enforcing, or threatening to serve or enforce, any notice requiring a resident to vacate any dwelling,

including but not limited to an eviction notice, notice to pay or vacate, unlawful detainer summons or complaint, notice of termination of rental, or notice to comply or vacate without first providing the tenant with written notice of the funding resources and programs established in E2SSB 5160. The written material may be provided in hard copy or electronically. Links to these materials may also be found on the Washington state Attorney General Office's website.

#### **Section 18.08.080 Reasonable payment plans**

- A. For rent owed that accrued due to COVID-19 or the economic effects of the pandemic (such as, without limitation, loss or reduction of income in connection with COVID-19) on or after February 29, 2020, landlords are prohibited from serving or enforcing, or threatening to serve or enforce, any notice requiring a resident to vacate any dwelling, including but not limited to an eviction notice, notice to pay or vacate, unlawful detainer summons or complaint, notice of termination of rental, or notice to comply or vacate if the landlord has made no attempt to establish a reasonable repayment plan with the tenant, or if they cannot agree on a plan and no local eviction resolution pilot program exists.
- B. Tenants must respond to landlords within 14 days of the landlord's offer.
- C. If a tenant fails to accept the terms of a reasonable repayment plan or if the tenant defaults on any rent owed under a repayment plan, a landlord must first provide notice to the tenant informing the tenant of the eviction resolution pilot program, and then follow the procedures provided in E2SSB 5160, before filing an unlawful detainer action based in whole or in part on non-payment. The pilot program must be operational and accepting new referrals at the time the notice is sent and must be able to provide the tenant with an opportunity to participate in the program.

#### **Section 18.08.090 Permissible unlawful detainer actions**

Excepting the prohibitions stated herein, all other allowable evictions under ESHB 1236 and the current Residential Landlord-Tenant Act (RCW 59.18) and Manufactured/Mobile Home Landlord-Tenant Act (RCW 59.20) may proceed as otherwise allowed by law.

#### **Section 18.08.100 Local law enforcement involvement in evictions prohibited**

The Spokane Police Department is prohibited from serving, threatening to serve, or otherwise acting on eviction orders, including assisting any other jurisdiction or law enforcement agency in the same, affecting any dwelling unless the eviction order, including a writ of restitution, contains a written finding that the landlord has complied with this chapter and the unlawful detainer action is permitted under this chapter.

#### **Section 18.08.110 Communications**

- A. Nothing in this chapter precludes a landlord from engaging in customary and routine communications with tenants.

- B. Within these communications and parameters, landlords may provide information to tenants regarding financial resources, including coordinating with tenants in applying for rent assistance through the state's Emergency Rent Assistance Program (ERAP) or an alternative rent assistance program, and to provide tenants with information on how to engage with them in discussions regarding reasonable repayment plans as described in this chapter.
- C. Tenants must respond to landlords regarding establishing reasonable repayment plans and participation in eviction resolution programs per the timelines established in E2SSB 5160.

#### **Section 18.08.120 Retaliation prohibited**

Landlords are prohibited from retaliating against individuals for invoking their rights or protections under this Proclamation, Proclamations 20-19 et seq., or any other state or federal law providing rights or protections for residential dwellings. Violation of this section is a misdemeanor.

#### **Section 18.08.130 Right to legal counsel**

- A. Nothing in this chapter modifies the requirement in Section 8 of E2SSB 5160 that a court must appoint an attorney for an indigent tenant in an unlawful detainer proceeding.
- B. The City of Spokane may implement a funding program to ensure implementation of Section 8 of E2SSB 5160.

#### **Section 18.08.140 Exclusions**

This chapter does not apply to:

- (1) emergency shelters where length of stay is conditioned upon a resident's participation in, and compliance with, a supportive services program;
- (2) long-term care facilities licensed or certified by Department of Social and Health Services;
- (3) transient housing in hotels and motels; short-term rentals;
- (4) motor homes;
- (5) RVs;
- (6) public lands; and
- (7) camping areas.

#### **Section 18.08.150 Penalties**

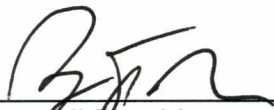
- A. Each violation of this chapter is a class 1 civil infraction. This penalty is in addition to any other penalties available to a prevailing party, including economic damages, reasonable attorneys fees and costs, and exemplary damages.
- B. Nothing in this chapter precludes the City of Spokane from imposing additional remedies for a landlord's breach of a rental assistance program contract, such as for unjust enrichment, or reasonable costs and attorneys fees.

**Section 18.08.160 Severability**


If any section, subsection, paragraph, or sentence of this chapter is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such provision(s) shall be severed from this chapter, and the remaining provisions of this chapter shall remain in force unaffected by such severance.

**Section 2.** That the City Council declares that an urgency and emergency exists, including the end of the eviction moratorium and the existence of a housing emergency in Spokane, such that this ordinance is needed for the immediate preservation of the public peace, health, or safety, and/or for the immediate support of City government and its existing public institutions, and that because of such need, this ordinance shall be effective immediately, under Section 19 of the City Charter, upon the affirmative vote of one more than a majority of the City Council.

**PASSED** by the City Council on January 10, 2022.

  
\_\_\_\_\_  
Council President

Attest:

  
\_\_\_\_\_  
City Clerk

Approved as to form:

  
\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

January 10, 2022  
\_\_\_\_\_  
Effective Date

Mayoral Decision to Return Unsigned

Returned: 1/24/22





## Briefing Paper

<b>Division &amp; Department:</b>	City Council
<b>Subject:</b>	Establishing requirements for participation in City of Spokane rental assistance programs
<b>Date:</b>	December 15, 2021
<b>Author (email &amp; phone):</b>	Breean Beggs (bbeggs@spokanecity.org) 625-6254
<b>City Council Sponsor(s):</b>	Council President Beggs; Council Member Stratton
<b>Executive Sponsor:</b>	None
<b>Committee(s) Impacted:</b>	Urban Development/Urban Experience
<b>Type of Agenda item:</b>	<input type="checkbox"/> Consent <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	<p>Comprehensive Plan Policy H 1.6 (Fair Housing): promote compliance with fair housing laws.</p> <p>Comprehensive Plan Policy H 1.10 (Lower-Income Housing Development Incentives): Support and assist the public and private sectors to develop lower-income or subsidized housing for households that cannot compete in the market for housing by using federal, state, and local aid.</p>
<b>Strategic Initiative:</b>	Available Housing; Our Most Vulnerable; Safer Community.
<b>Deadline:</b>	File for Council consideration following committee meeting.
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Creation of requirements for landlord participation in rental assistance programs; increase housing stability for renters; creation of predictable framework for participation in rental assistance programs.
<b>Budget Impact:</b>	
Approved in current year budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If new, specify funding source: N/A	
Other budget impacts: (revenue generating, match requirements, etc.) N/A	
<b>Operations Impact:</b>	
Consistent with current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Requires change in current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Specify changes required: New program requirements for participants in rental assistance programs.	
Known challenges/barriers: Adoption of new program requirements for participations in rental assistance programs.	