

Why Spokane Cannot Afford a Just Cause Eviction Ordinance

By Ron Devonport - 06/27/16

A Just Cause Eviction Ordinance in Spokane would have unintended negative consequences for landlords and for neighborhoods, but those most immediately affected would be the vast majority of tenants (who are personally and socially responsible).

The Tenant's Union states that Spokane needs a just cause ordinance to prevent "arbitrary or retaliatory" evictions. However, retaliation is already fully addressed in RCWs 59.18.240/250 where there is even a rebuttable presumption against landlords:

"Initiation by the landlord of any action listed in RCW 59.18.240 within ninety days after a good faith and lawful act by the tenant as enumerated in RCW 59.18.240, or within ninety days after any inspection or proceeding of a governmental agency resulting from such act, shall create a **rebuttable presumption** affecting the burden of proof, that the action is a reprisal or retaliatory action against the tenant..."

As for arbitrary, perhaps the Tenant's Union could explain why a landlord would evict or terminate a responsible, paying tenant and expend the time, effort, and cost of re-letting a rental unit. If long established Washington State legislation is to be overturned, all those affected (we, the people of Spokane) are entitled to see proof of need, and not base fundamental changes to our laws on the unsubstantiated claims of the Tenant's Union. If arbitrary or retaliatory evictions are indeed as prevalent as is claimed, it should not be difficult to produce verifiable, supporting data.

It would be impossible to foresee and specify every conceivable aspect of undesirable tenant conduct in a written rental agreement, and to cite an unspecified non-compliance in that agreement would be a legal nonsense. A 20 day notice of termination is, therefore, a landlord's most valuable means of deterring undesirable/anti-social tenant behavior. Imposing just cause in Spokane will enable and/or prolong that undesirable behavior to the detriment of other tenants and neighbors. Landlords sometimes need to intervene on behalf of responsible tenants to restrain or remove problem tenants. If additional constraints are placed on landlords, the aggrieved tenants (who may be vulnerable or intimidated) will be forced to endure problem neighbors, or themselves bear the cost and upheaval of moving out.

There are many tenants who, for one reason or another, prefer the freedom of a month-to-month rental agreement. These tenants will be harmed by just cause in a different way; If just cause is enacted in Spokane, they will lose that month-to-month option. Since there would be no reciprocal advantage for landlords, many, if not all, would simply revert to fixed-term only leases.

It was stated in the Stakeholder Group neighborhood presentation that absentee or uninvolved landlords are a key factor in neighborhood decline. That claim would appear to be self evident. However, just cause would further restrict even a conscientious landlord's ability to curb anti-social tenant conduct, which would make neighborhood recovery even more elusive. Stakeholder Group neighborhood advocates have been deliberately and cynically prevented from hearing any discussion of these ramifications.

The TU also claims that lack of just cause enables discriminatory eviction of protected classes. However,

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there is no explanation as to why a prejudiced landlord would let to someone of a protected class in the first place only to later evict them. As mentioned above, to establish this is a real and prevalent problem, reliable data should be sought and made available.

Lastly, it's worth noting that the TU's "Model Just Cause Eviction Ordinance For The City of Spokane" mentions the virtues of just cause ordinances enacted by various municipalities. However, the TU's list of causes has inflated the number of infractions and time-window of the 3 day "pay or vacate" and the 10 day "comply or vacate" notices necessary for a landlord to justify an eviction beyond even the most egregious of the existing ordinances - that of Seattle (compare the attached documents).



Information for Tenants

TRANSLATIONS

For copies of this document in Cambodian, Chinese, Korean, Laotian, Russian, Somali, Spanish, Tagalog and Vietnamese, visit DPD's website at www.seattle.gov/dpd/publications or call (206) 684-8467.

This summary of Washington state and City of Seattle landlord/tenant regulations must be provided to tenants by owners of residential rental property located in Seattle on at least an annual basis. Please note that City and State laws may not be identical on any particular topic; therefore, both sets of laws should be consulted. For legal advice, please consult an attorney.

September 2008

Seattle Landlord-Tenant Laws

OBLIGATIONS OF LANDLORDS

Building owners must provide safe, clean, secure living conditions, including:

- Keeping the premises fit for human habitation and keeping common areas reasonably clean and safe
- Controlling insects, rodents and other pests
- Maintaining roof, walls and foundation and keeping the unit weathertight
- Maintaining electrical, plumbing, heating and other equipment and appliances supplied by the owner
- Providing adequate containers for garbage and arranging for garbage pickup
- When responsible for providing heat in rental units, from September through June maintaining daytime (7:00 a.m.-10:30 p.m.) temperatures at 65°F or above and nighttime temperatures at not less than 58°F
- In non-transient accommodations, providing keys to unit and building entrance doors and, in most cases, changing the lock mechanism and keys upon a change of tenants
- Installing smoke detectors and instructing tenants in their maintenance and operation

Owners are not required to make cosmetic repairs after each tenancy, such as installing new carpets or applying a fresh coat of paint.

OBLIGATIONS OF TENANTS

Tenants must maintain rental housing in a safe, clean manner, including:

- Properly disposing of garbage
- Exercising care in use of electrical and plumbing fixtures
- Promptly repairing any damage caused by them or their guests
- Granting reasonable access for inspection, maintenance, repair and pest control
- Maintaining smoke detectors in good working order
- Refraining from storing dangerous materials on the premises

THE JUST CAUSE EVICTION ORDINANCE

This ordinance requires landlords to have good cause in order to terminate a month-to-month tenancy. It specifies the only reasons for which a tenant in Seattle may be required to move, and requires owners to state the reason, in writing, for ending a tenancy when giving a termination notice. Unless otherwise noted, an owner must give a termination notice at least 20 days before the start of the next rental period. Good causes include:

1. The tenant fails to pay rent within three days of a notice to pay rent or vacate.
2. The owner has notified the tenant in writing of overdue rent at least four times in a 12-month period.

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3. The tenant does not comply with a material term of a lease or rental agreement within 10 days of receiving a notice to comply or vacate.
 4. The tenant does not comply with a material obligation under the *Washington State Residential Landlord-Tenant Act* within 10 days of a notice to comply or vacate.
 5. The owner has notified a tenant in writing at least three times in a 12-month period to comply within 10 days with a material term of the lease or rental agreement.
 6. The tenant seriously damages the rental unit (causes "waste"), causes a nuisance (including drug-related activity), or maintains an unlawful business and does not vacate the premises within three days of notice to do so.
 7. The tenant engages in criminal activity in the building or on the premises, or in an area immediately adjacent to the building or premises. The alleged criminal activity must substantially affect the health or safety of other tenants or the owner; illegal drug-related activity is one crime specified by the ordinance. An owner who uses this reason must clearly state the facts supporting the allegation, and must send a copy of the termination of tenancy notice to the DPD Property Owner Tenant Assistance (POTA) Unit.
 8. The owner wishes to occupy the premises personally, or the owner's immediate family will occupy the unit, and no substantially equivalent unit is vacant and available in the same building. Immediate family includes the owner's spouse or owner's domestic partner, and the parents, grandparents, children, brothers and sisters of the owner or owner's spouse or owner's domestic partner. DPD may require a property owner to sign a certification of the intent to have a family member move in if a tenant has reason to believe the owner will not follow through with this reason. There is a rebuttable presumption of a violation if the designated person does not occupy the unit for a continuous period of 60 days out of the 90 days after the tenant vacates. A tenant whose tenancy is ended for this reason has a private right of action if he or she feels the owner has failed to comply with these requirements.
 9. The owner wishes to terminate a tenant who lives in the same housing unit with the owner or the owner's agent; or the owner desires to stop sharing his or her house with a tenant living in an approved accessory dwelling unit (ADU) in an owner-occupied house.
 10. The tenant's occupancy is conditioned upon employment on the property and the employment is terminated.
 11. The owner plans major rehabilitation and has obtained required permits and a Tenant Relocation License. A tenant terminated for this reason has a private right of action if he or she feels the owner has failed to comply with these requirements.
 12. The owner decides to convert the building to a condominium or a cooperative.
 13. The owner decides to demolish a building or to convert it to non-residential use and has obtained the necessary permit and a Tenant Relocation License.
 14. The owner desires to sell a single family residence (does not include condominium units) and gives the tenant written notice at least 60 days prior to the end of a rental period. The owner must list the property for sale at a reasonable price in a newspaper or with a realty agency within 30 days after the date the tenant vacates. Property owners may be required to sign a certification of the intent to sell the house if DPD receives a complaint. There is a rebuttable presumption of a violation if the unit is not listed or advertised, or is taken off the market or re-rented within 90 days after the tenant leaves. A tenant terminated for this reason has a private right of action if he or she feels an owner has failed to comply with these requirements.
 15. The owner seeks to discontinue use of a unit not authorized under the Land Use Code, after receiving a Notice of Violation. The owner must pay relocation assistance to tenants who have to move so that the owner can correct the violation. Relocation assistance for low-income tenants is \$2,000; for other tenants it is an amount equal to two months' rent.
 16. The owner needs to reduce the number of tenants sharing a dwelling unit in order to comply with Land Use Code restrictions (i.e., no more than eight people per dwelling unit if any are unrelated). For information on the procedures to terminate tenancies for this reason, please consult DPD Client Assistance Memo (CAM) #610 *Terminating Tenancies Under the Just Cause Eviction Ordinance*.
 17. The owner must terminate a tenancy in a house containing an approved ADU in order to comply with the development standards for ADUs, after receiving a Notice of Violation of the Land Use Code. (If the violation is that the owner has moved out of the house and has rented both units, one unit must either be reoccupied by the owner or be removed.) The owner must pay relocation assistance to displaced tenants in the amount of \$2,000 for low-income tenants, or two months' rent in other cases. DPD may require a property owner to sign a certification of his or her intent to discontinue the use of the ADU.
 18. An Emergency Order to Vacate and close the property has been issued by DPD and the tenants have failed to vacate by the deadline given in the Order.
- Failure to carry out stated cause:** If an owner terminates a tenant because of (1) the sale of a single family residence is planned, (2) the owner or a family member is to move in, (3) substantial rehabilitation is planned, (4) the number of residents must be reduced to eight, or (5) the owner is discontinuing the use of an ADU

after receipt of a notice of violation, and the owner fails to carry out the stated reason for terminating the tenancy, he or she may be subject to enforcement action by the City and a civil penalty of up to \$2,500.

Private right of action for tenants: If an owner terminates a tenant because of (1) the sale of a single family residence is planned, (2) the owner or a family member is to move in, or (3) substantial rehabilitation is planned, and if the owner fails to carry out the stated reason for terminating the tenancy, the tenant can sue the owner for up to \$2,000, costs, and reasonable attorney's fees.

For additional information on the Just Cause Eviction Ordinance, call DPD at (206) 615-0808 or visit the Seattle City Clerk's Office website at <http://www.seattle.gov/leg/clerk/clerk.htm> and look up Chapter 22.206 of the Seattle Municipal Code.

ACTIONS CONSIDERED TO BE HARASSMENT OR RETALIATION

City law prohibits retaliatory actions against either a tenant or a landlord. **These provisions are enforced by the Seattle Police Department.**

A landlord is prohibited from harassing or retaliating against a tenant by:

1. Changing or tampering with locks on unit doors
2. Removing doors, windows, fuse box, furniture or other fixtures
3. Discontinuing utilities supplied by the owner
4. Removing a tenant from the premises except through the formal court eviction process
5. Evicting, increasing rent or threatening a tenant for reporting code violations to DPD or the Police Department or for exercising any legal rights arising out of the tenant's occupancy
6. Entering a tenant's unit, except in an emergency, or except at reasonable times with the tenant's consent after giving at least two days notice, or a one-day notice when showing units to prospective purchasers or tenants
7. Prohibiting a tenant, or a tenant's authorized agent who is accompanied by that tenant, from distributing information in the building, posting information on bulletin boards in accordance with building rules, contacting other tenants, assisting tenants to organize and holding meetings in community rooms or common areas

In most instances the law initially assumes that a landlord is retaliating if the landlord takes any of these actions within 90 days after a tenant reports a violation to DPD or to the Seattle Police Department, or within 90 days after a governmental agency action, such as making an inspection. In such cases the burden is on the landlord to rebut this presumption of retaliation.

A tenant is prohibited from harassing or retaliating

against a landlord by:

1. Changing or adding locks on unit doors
2. Removing owner-supplied fixtures, furniture, or services
3. Willfully damaging the building

Harassment or retaliation by an owner or a tenant should be reported to the Seattle Police at 911 or the non-emergency number, (206) 625-5011.

OTHER CITY ORDINANCES THAT AFFECT TENANTS AND LANDLORDS

1. Rental Agreement Regulation Ordinance

Under this law, landlords who intend to increase rent and some other housing costs by 10 percent or more within a 12-month period must give 60 days written notice. Second, landlords are not allowed to require a month-to-month tenant to stay more than one rental period (e.g., one month). Rental agreement provisions that penalize a tenant for moving before a minimum number of months have passed are not valid. A landlord who desires to have a tenant stay for a certain amount of time should offer the tenant a lease. Lastly, landlords are required to give current and new renters this publication about Seattle and Washington state laws. Tenants can recover actual damages, legal costs and penalties through private civil action against landlords who violate this law. One duplicable master copy per customer is available from the DPD Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. To request a copy by mail send a self-addressed envelope to Publications Clerk, DPD, 700 Fifth Ave. Suite 2000, P.O. Box 34019, Seattle WA 98124-4019.

2. Open Housing and Public Accommodations Ordinance

The City of Seattle is committed to a policy of promoting the availability and accessibility of housing to all persons and prohibits discrimination on the basis of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, participation in a Section 8 program or disability. Inquiries about this ordinance and complaints of violations should be directed to the Seattle Office for Civil Rights at (206) 684-4500.

3. Condominium and Cooperative Conversion Ordinances

When a residential building is being converted to condominiums or cooperative units, the Condominium and Cooperative Conversion ordinances require a housing code inspection.

Additionally, in a condominium conversion, a tenant must receive a written 120-day notice of the conver-

sion. If the tenant decides not to buy his or her unit, the tenant may be eligible to receive the equivalent of three (3) months' rent in relocation assistance if the tenant's annual income, from all sources, does not exceed 80 percent of the area median income, adjusted for household size. A household which otherwise qualifies to receive relocation benefits and which includes a member sixty-five (65) years of age or older or an individual with "special needs", as defined in the ordinance, may qualify for additional assistance.

In a cooperative conversion, a tenant must receive a 120-day notice of intention to sell the unit. If the tenant decides not to buy his or her unit, the tenant must be pay \$500.00 in relocation assistance.

Relocation assistance is paid directly to the tenant by the property owner or developer. The assistance must be paid no later than the date on which a tenant vacates his or her unit.

For further information, contact DPD Code Compliance at (206) 615-0808.

4. Tenant Relocation Assistance Ordinance

This ordinance applies when tenants are displaced by housing demolition, change of use, substantial rehabilitation, or by removal of use restrictions from subsidized housing. A property owner who plans development activity must obtain a tenant relocation license and a building or use permit before terminating a tenancy. All tenants must receive a 90-day notice of the activity that will require them to move. Eligible low income tenants, whose annual income cannot exceed 50% of the area median income, receive cash relocation assistance. Call DPD at (206) 615-0808 for more information.

5. Repair and Maintenance—Housing and Building Maintenance Code

This ordinance requires owners to meet certain minimum standards and keep buildings in good repair. After first requesting the owner to make repairs, a tenant can report needed repairs by calling DPD at (206) 615-0808. If an inspector finds code violations, the owner will be required to make needed corrections.

6. Third Party Billing Ordinance

This ordinance defines rules for landlords who, by themselves or through private companies, bill tenants for City provided utilities (water, sewer, garbage, electric services) separately from their rent. The ordinance applies to all residential buildings having three or more housing units.

The rules require a landlord or billing agent to provide tenants with specific information about their bills and to disclose their billing practices, either in a rental agreement or in a separate written notice. It is a violation of the ordinance if a landlord imposes a new

billing practice without appropriate notice.

A tenant can dispute a third-party billing by notifying the billing agent and explaining the basis for the dispute. This must be done within 30 days of receiving a bill. The billing agent must contact the tenant to discuss the dispute within 30 days of receiving notice of the dispute. A tenant can also file a complaint with the Seattle Office of the Hearing Examiner or take the landlord to court. If the Hearing Examiner or court rules in favor of the tenant, the landlord could be required to pay a penalty.

The Washington Residential Landlord-Tenant Act

Chapter 59.18 RCW.

For more information, call (206) 464-6811

Most tenants who rent a place to live come under the state's Residential Landlord-Tenant Act. However, certain renters are specifically excluded from the law. [See RCW 59.18.415] at <http://apps.leg.wa.gov/RCW/> and type in 59.18. 415.

Those who are generally not covered by the Act are:

- Renters of a space in a mobile home park are usually covered by the state's Mobile Home Landlord-Tenant Act (RCW 59.20). However, renters of both a space and a mobile home are usually covered by the residential law.
- Residents in hotels and motels; residents of public or private medical, religious, educational, recreational or correctional institutions; residents of a single family dwelling which is rented as part of a lease of agricultural land; residents of housing provided for seasonal farm work.
- Tenants with an earnest money agreement to purchase the dwelling. Tenants who lease a single family dwelling with an option to purchase, if the tenant's attorney has approved the face of the lease. Tenants who have signed a lease option agreement but have not yet exercised that option are still covered.
- Tenants who are employed by the landlord, when their agreement specifies that they can only live in the rental unit as long as they hold the job (such as an apartment house manager).
- Tenants who are leasing a single family dwelling for one year or more, when their attorney has approved the exemption.
- Tenants who are using the property for commercial rather than residential purposes.

RIGHTS OF ALL TENANTS

Regardless of whether they are covered by the Residential Landlord-Tenant Act, all renters have these basic rights under other state laws: the Right to a livable dwelling; Protection from unlawful discrimination; Right to hold the landlord liable for personal injury or property damage caused by the landlord's negligence; Protection against lockouts and seizure of personal property by the landlord.

TYPES OF RENTAL AGREEMENTS

Month-to-Month Agreement. This agreement is for an indefinite period of time, with rent usually payable on a monthly basis or other short term period. The

agreement itself can be in writing or oral, but if any type of fee or refundable deposit is collected, the agreement must be in writing. [RCW 59.18.260]

A month-to-month agreement continues until either the landlord or tenant gives the other written notice at least 20 days before the end of the rental period. In the situation of a conversion to a condominium or a change in the policy excluding children the landlord must provide 90 days written notice to the tenant. [RCW 59.18.200] The rent can be increased or the rules changed at any time, provided the landlord gives the tenant written notice at least 30 days before the effective date of the rent increase or rule change. [RCW 59.18.140]

Lease. A lease requires the tenant to stay for a specific amount of time and restricts the landlord's ability to change the terms of the rental agreement. A lease must be in writing to be valid. During the term of the lease, the rent cannot be raised or the rules changed unless both landlord and tenant agree. Leases of one year or more can be exempt from the Landlord-Tenant Act if the tenant's attorney has approved such an exemption.

ILLEGAL DISCRIMINATION

Federal law prohibits most landlords from refusing to rent to a person or imposing different rental terms on a person because of race, color, religion, sex, handicap, familial status (having children or seeking custody of children), or national origin. [Fair Housing Act 42 USC s. 3601 et.seq. 1988] State law recognizes protection to the same individuals as well as for marital status, creed, the presence of sensory, mental, or physical disability. If you think you have been denied rental housing or have been the victim of housing discrimination file a written complaint with the Washington State Human Rights Commission. You may also file a complaint with the federal Fair Housing Section of the Department of Housing and Urban Development or your local city human rights department.

LIABILITY

Once the tenant has signed a rental agreement, he or she must continue to pay the rent to maintain their eligibility to bring actions under this act. The tenant should also understand what he or she is responsible for in the maintenance of the property. While the landlord is responsible for any damage which occurs due to his or her negligence, the tenant must be prepared to accept responsibility for damages he or she causes.

ILLEGAL PROVISIONS IN RENTAL AGREEMENTS

Some provisions which may appear in rental agreements or leases are not legal and cannot be enforced under the law. [RCW 59.18.230] These include:

- A provision which waives any right given to tenants by the Landlord-Tenant Act or that surren-

ders tenants' right to defend themselves in court against a landlord's accusations.

- A provision stating the tenant will pay the landlord's attorney's fees under any circumstances if a dispute goes to court.
- A provision which limits the landlord's liability in situations where the landlord would normally be responsible.
- A provision which requires the tenant to agree to a particular arbitrator at the time of signing the rental agreement.
- A provision allowing the landlord to enter the rental unit without proper notice.
- A provision requiring a tenant to pay for all damage to the unit, even if it is not caused by tenants or their guests.
- A provision that allows the landlord to seize a tenant's property if the tenant falls behind in rent.

PRIVACY—LANDLORD'S ACCESS TO THE RENTAL [RCW 59.18.150]

The landlord must give the tenant at least a two day notice of his intent to enter at reasonable times. However, tenants must not unreasonably refuse to allow the landlord to enter the rental where the landlord has given at least one-day's notice of intent to enter at a specified time to exhibit the dwelling to prospective or actual purchasers or tenants. The law says that tenants shall not unreasonably refuse the landlord access to repair, improve, or service the dwelling. In case of an emergency, or if the property has been abandoned, the landlord can enter without notice. The landlord still must get the tenant's permission to enter, even if the required advance notice has been given.

DEPOSITS AND OTHER FEES

Refundable deposits

Under the Landlord-Tenant Act, the term "deposit" can only be applied to money which can be refunded to the tenant. If a refundable deposit is collected, the law requires:

- The rental agreement must be in writing. It must say what each deposit is for and what the tenant must do in order to get the money back. [RCW 59.18.260]
- The tenant must be given a written receipt for each deposit. [RCW 59.18.270]
- A checklist or statement describing the condition of the rental unit must be filled out. The landlord and the tenant must sign it, and the tenant must be given a signed copy. (The Consumer Resource Center of the Attorney General's Office offers a free sample checklist for this purpose.) [RCW 59.18.260]
- The deposits must be placed in a trust account in a bank or escrow company. The tenant must be

informed in writing where the deposits are being kept. Unless some other agreement has been made in writing, any interest earned by the deposit belongs to the landlord. [RCW 59.18.270]

Non-refundable fees

These will not be returned to the tenant under any circumstances. If a non-refundable fee is being charged, the rental agreement must be in writing and must state that the fee will not be returned. A non-refundable fee cannot legally be called a "deposit." [RCW 59.18.285]

LANDLORD'S RESPONSIBILITIES [RCW 59.18.060]

The landlord must:

- Maintain the dwelling so it does not violate state and local codes in ways which endanger tenants' health and safety
- Maintain structural components, such as roofs, floors and chimneys, in reasonably good repair.
- Maintain the dwelling in reasonably weather tight condition
- Provide reasonably adequate locks and keys.
- Provide the necessary facilities to supply heat, electricity, hot and cold water
- Provide garbage cans and arrange for removal of garbage, except in single family dwellings
- Keep common areas, such as lobbies, stairways and halls, reasonably clean and free from hazards
- Control pests before the tenant moves in. The landlord must continue to control infestations except in single family dwellings, or when the infestation was caused by the tenant
- Make repairs to keep the unit in the same condition as when the tenant moved in—except for normal wear and tear
- Keep electrical, plumbing and heating systems in good repair, and maintain any appliances which are provided with the rental
- Inform the tenant of the name and address of the landlord or landlord's agent
- Supply hot water as reasonably required by tenant
- Provide written notice of fire safety and protection information and ensure that the unit is equipped with working smoke detectors when a new tenant moves in. (Tenants are responsible for maintaining detectors.) Except for single family dwellings, the notice must inform the tenant on how the smoke detector is operated and about the building's fire alarm and/or sprinkler system, smoking policy, and plans for emergency notification, evacuation and relocation, if any. Multifamily units may provide this notice as a checklist disclosing the building's fire safety and protection devices and a diagram showing emergency evacuation routes.

- Provide tenants with information provided or approved by the Department of Health about the health hazards of indoor mold, including how to control mold growth to minimize health risks, when a new tenant moves in. The landlord may give written information individually to each tenant, or may post it in a visible, public location at the dwelling unit property. The information can be obtained at www.doh.wa.gov/ehp/ts/IAQ/mold-notification.htm.
- Investigate if a tenant is engaged in gang-related activity when another tenant notifies the landlord of gang-related activity by serving a written notice and investigation demand to the landlord. [RCW 59.18.180]

TENANT'S RESPONSIBILITIES [RCW 59.18.130]

A tenant is required to:

- Pay rent, and any utilities agreed upon
- Comply with any requirements of city, county or state regulations
- Keep the rental unit clean and sanitary
- Dispose of the garbage properly
- Pay for fumigation of infestations caused by the tenant
- Properly operate plumbing, electrical and heating systems
- Not intentionally or carelessly damage the dwelling
- Not permit "waste" (substantial damage to the property) or "nuisance" (substantial interference with other tenant's use of property)
- Maintain smoke detection devices including battery replacement
- Not engage in activity at the premises that is imminently hazardous to the physical safety of other persons on the premises and that entails a physical assault on a person or unlawful use of a firearm or other deadly weapon resulting in an arrest [RCW 59.18.352]
- When moving out, restore the dwelling to the same conditions as when the tenant moved in, except for normal wear and tear

THREATENING BEHAVIOR BY A TENANT OR LANDLORD [RCW 59.18.352 and .354]

If one tenant threatens another with a firearm or other deadly weapon, and the threatening tenant is arrested as a result of the threat, the landlord may terminate the tenancy of the offending tenant (although the landlord is not required to take such action). If the landlord does not file unlawful detainer action, the threatened tenant may choose to give written notice and move without further obligation under the rental agreement. If a landlord threatens a tenant under similar circumstances, the tenant may choose to give notice and move. In both cases, the threatened tenant does not have to pay rent for any day following the

date of leaving, and is entitled to receive a pro-rated refund of any prepaid rent.

MAKING CHANGES TO THE MONTH-TO-MONTH AGREEMENT

Generally speaking, if the landlord wants to change the provisions of a month-to-month rental agreement, such as raising the rent or changing rules, the tenant must be given at least 30 days notice in writing. These changes can only become effective at the beginning of a rental period (the day the rent is due). Notice which is less than 30 days will be effective for the following rental period.

If the landlord wishes to convert the unit to a condominium, the tenant must be given a 90-day notice. [RCW 59.18.200]

MAKING CHANGES TO LEASES

Under a lease, in most cases, changes during the lease term cannot be made unless both landlord and tenant agree to the proposed change.

If the property is sold. The sale of the property does not automatically end a tenancy. When a rental unit is sold, tenants must be notified of the new owner's name and address, either by certified mail, or by a revised posting on the premises. All deposits paid to the original owner must be transferred to the new owner, who must put them in a trust or escrow account. The new owner must promptly notify tenants where the deposits are being held.

HOW TO HANDLE REPAIRS

A tenant must be current in the payment of rent including all utilities to which the tenant has agreed in the rental agreement to pay before exercising any statutory remedies, such as repair options. [RCW 59.18.080]

Required Notice [RCW 59.18.070] When something in the rental unit needs to be repaired, the first step is for the tenant to give written notice of the problem to the landlord or person who collects the rent.

The notice must include the address and apartment number of the rental; the name of the owner, if known; and a description of the problem. After giving notice, the tenant must wait the required time for the landlord to begin making repairs. Those required waiting times are: 24 hours for no hot or cold water, heat or electricity, or for a condition which is imminently hazardous to life; 72 hours for repair of refrigerator, range and oven, or a major plumbing fixture supplied by landlord; 10 days for all other repairs.

Tenant's Options [RCW 59.18.090] If repairs are not started within the required time and if the tenant is paid up in rent and utilities, the following options can be used:

- 1) Tenant can give written notice to the landlord and move out immediately. Tenants are entitled to a pro-rated refund of their rent, as well as the

deposits they would normally get back.

- 2) Litigation or arbitration can be used to work out the dispute.
- 3) The tenant can hire someone to make the repairs. In many cases the tenant can have the work done and then deduct the cost from the rent. [RCW 59.18.100] (This procedure cannot be used to force a landlord to provide adequate garbage cans.)

An Important Note: If the repair is one that has a 10-day waiting period, the tenant cannot contract to have the work done until 10 days after the landlord receives notice, or five days after the landlord receives the estimate, whichever is later.

To follow this procedure a tenant must: Submit a good faith estimate from a licensed or registered tradesperson, if one is required, to the landlord. After the waiting period, the tenant can contract with the lowest bidder to have the work done. After the work is completed, the tenant pays the tradesperson and deducts the cost from the rent payment. The landlord must be given the opportunity to inspect the work. The cost of each repair cannot exceed one month's rent; total cost cannot exceed two month's rent in any 12-month period.

If a large repair which affects a number of tenants needs to be made, the tenants can join together, follow the proper procedure, and have the work done. Then each can deduct a portion of the cost from their rent.

- 4) The tenant can make the repairs and deduct the cost from the rent, if the work does not require a licensed or registered tradesperson. The same procedure is followed as for (2) above. However, the cost limit is one half of one month's rent.
- 5) Rent in Escrow - After notice of defective conditions, and after appropriate government certification of defect, and waiting periods have passed, then tenants may place their monthly rent payments in an escrow account. For copies of the law (RCW 59.18) write to the Code Reviser or consult your attorney.

ILLEGAL LANDLORD ACTIONS

Lockouts. [RCW 59.18.290] The law prohibits landlords from changing locks, adding new locks, or otherwise making it impossible for the tenant to use the normal locks and keys. Even if a tenant is behind in rent, such lockouts are illegal.

A tenant who is locked out can file a lawsuit to regain entry. Some local governments also have laws against lockouts and can help a tenant who has been locked out of a rental. For more information contact your city or county government.

Utility shutoffs. [RCW 59.18.300] The landlord may not shut off utilities because the tenant is behind in rent, or to force a tenant to move out. Utilities may only be shut off by the landlord so that repairs may be made, and only

for a reasonable amount of time. If a landlord intentionally does not pay utility bills so the service will be turned off, that could be considered an illegal shutoff. If the utilities have been shut off by the landlord, the tenant should first check with the utility company to see if it will restore service. If it appears the shutoff is illegal, the tenant can file a lawsuit. If the tenant wins in court, the judge can award the tenant up to \$100 per day for the time without service, as well as attorney's fees.

Taking the tenant's property. [RCW 59.18.310] The law allows a landlord to take a tenant's property only in the case of abandonment. A clause in a rental agreement which allows the landlord to take a tenant's property in other situations is not valid. If the landlord does take a tenant's property illegally, the tenant may want to contact the landlord first. If that is unsuccessful, the police can be notified. If the property is not returned after the landlord is given a written request, a court could order the landlord to pay the tenant up to \$100 for each day the property is kept — to a total of \$1,000. [RCW 59.18.230(4)]

Renting condemned property. [RCW 59.18.085] The landlord may not rent units which are condemned or unlawful to occupy due to existing uncorrected code violations. The landlord can be held liable for three months rent or treble damages, whichever is greater, as well as costs and attorneys fees for knowingly renting the property.

Retaliatory actions. [RCW 59.18.240 -.250] If the tenant exercises rights under the law, such as complaining to a government authority or deducting for repairs, the law prohibits the landlord from taking retaliatory action. Examples of retaliatory actions are raising the rent, reducing services provided to the tenant, or evicting the tenant. The law initially assumes that these steps are retaliatory if they occur within 90 days after the tenant's action, unless the tenant was in some way violating the statute when the change was received. If the matter is taken to court and the judge finds in favor of the tenant, the landlord can be ordered to reverse the retaliatory action, as well as pay for any harm done to the tenant and pay the tenant's attorney fees.

ENDING THE AGREEMENT

Proper Notice to Leave for Leases. If the tenant moves out at the expiration of a lease, in most cases it is not necessary to give the landlord a written notice. However, the lease should be consulted to be sure a formal notice is not required. If a tenant stays beyond the expiration of the lease, and the landlord accepts the next month's rent, the tenant then is assumed to be renting under a month-to-month agreement.

A tenant who leaves before a lease expires is responsible for paying the rent for the rest of the lease. However, the landlord must make an effort to re-rent the unit at a reasonable price. If this is not done, the tenant may not be liable for rent beyond a reasonable period of time.

Proper Notice to Leave for Leases—Armed Forces Exception. A lease can be terminated when the tenant is a member of the armed forces (including the national guard or armed forces reserve), if the tenant receives reassignment or deployment orders, provided the tenant informs the landlord no later than seven days after the receipt of such orders. In these circumstances, the tenancy may also be terminated by the tenant's spouse or dependent.

Proper Notice to Leave for Month-to-Month Agreements. When a tenant wants to end a month-to-month rental agreement, written notice must be given to the landlord.

The notice must be received at least 20 days before the end of the rental period (the day before the rent is due). The day which the notice is delivered does not count. A landlord cannot require a tenant to give more than 20 days notice when moving out. When a landlord wants a month-to-month renter to move out, a 20-day notice is required. If a tenant moves out without giving proper notice, the law says the tenant is liable for rent for the lesser of: 30 days from the day the next rent is due, or 30 days from the day the landlord learns the tenant has moved out. However, the landlord has a duty to try and find a new renter. If the dwelling is rented before the end of the 30 days, the former tenant must pay only until the new tenant begins paying rent.

Proper Notice to Leave for Month-to-Month Agreements—Armed Forces Exception. A month-to-month tenancy can be terminated with less than 20 days written notice when the tenant is a member of the armed forces (including the national guard or armed forces reserve), if the tenant receives reassignment or deployment orders that do not allow for a 20-day notice. In these circumstances, the tenancy may also be terminated by the tenant's spouse or dependent.

Violation of Protection Order. A tenant who has given written notice to the landlord that he or she or a household member was a victim of domestic violence, sexual assault or stalking, may immediately terminate a rental agreement when a valid order for protection has been violated or the tenant has notified the appropriate law enforcement officers of the violation. A copy of the order must be made available to the landlord. The tenant must terminate the rental agreement within 90 days of the act or event leading to the protection order or report to appropriate law enforcement. [RCW 59.18.575]

RETURN OF DEPOSITS [RCW 59.18.280]

After a tenant moves out, a landlord has 14 days in which to return the deposits, or give the tenant a written statement of why all or part of the money is being kept. It is advisable for the tenant to leave a forwarding address with the landlord when moving out.

Under the law, the rental unit must be restored to the same condition as when the tenant moved in, except for normal wear and tear. Deposits cannot be used to cover normal wear and tear; or damage that existed when the tenant moved in.

The landlord is in compliance with the law if the required payment, statement, or both, are deposited in the U.S. Mail with First Class postage paid, within 14 days. If the tenant takes the landlord to court, and it is ruled that the landlord intentionally did not give the statement or return the money, the court can award the tenant up to twice the amount of the deposit.

EVICCTIONS

For not paying rent. If the tenant is even one day behind in rent, the landlord can issue a three-day notice to pay or move out. If the tenant pays all the rent due within three days, the landlord must accept it and cannot evict the tenant. A landlord is not required to accept a partial payment. [RCW 59.12.030, 59.18.115(5)]

For not complying with the terms of the rental agreement. If the tenant is not complying with the rental agreement (for example, keeping a cat when the agreement specifies no pets are allowed), the landlord can give a 10-day notice to comply or move out. If the tenant satisfactorily remedies the situation within that time, the landlord cannot continue the eviction process.

For creating a “waste or nuisance.” If a tenant destroys the landlord's property, uses the premises for unlawful activity including gang- or drug-related activities, damages the value of the property or interferes with other tenant's use of the property, the landlord can issue a three-day notice to move out. The tenant must move out after this kind of notice. There is no option to stay and correct the problem.

For violations within drug and alcohol free housing. If a tenant enrolled in a program of recovery in drug and alcohol free housing for less than two years uses, possesses, or shares alcohol or drugs the landlord can give a three-day notice to move out. If the tenant cures the violation within one day, the rental agreement does not terminate. If the tenant fails to remedy the violation within one day, he or she must move out and the rental agreement is terminated. If the tenant engages in substantially the same behavior within six months, the landlord can give a three-day notice to move out and the tenant has no right to cure the subsequent violation.

For no cause. Except in the city of Seattle, landlords can terminate a month-to-month tenancy without having or stating a particular reason, as long as the termination is not discriminatory or retaliatory.

If the landlord wants a tenant to move out and does not give a reason, the tenant must be given a 20-day notice to leave. The tenant must receive the notice at least 20 days before the next rent is due. The tenant can only be required to move out at the end of a rental

period (the day before a rental payment is due). Usually, a 20-day notice cannot be used if the tenant has signed a lease. Check the specific rental document to determine if a lease can be ended this way.

In order for a landlord to take legal action against a tenant who does not move out, notice must be given in accordance with the unlawful detainer law (RCW 59.12.040).

If the tenant continues to occupy the rental in violation of a notice to leave, the landlord must then go to court to begin what is called an “unlawful detainer” action. If the court rules in favor of the landlord, the sheriff will be instructed to move the tenant out of the rental if the tenant does not leave voluntarily. The only legal way for a landlord to move a tenant physically out of a unit is by going through the courts and the sheriff’s office.

ABANDONMENT RELATED TO FAILURE TO PAY RENT [RCW 59.18.310]

Under the law, abandonment occurs when a tenant has both fallen behind in rent and has clearly indicated by words or actions an intention not to continue living in the rental.

When a rental has been abandoned, the landlord may enter the unit and remove any abandoned property. It must be stored in a reasonably secure place. A notice must be mailed to the tenant saying where the property is being stored and when it will be sold. If the landlord does not have a new address for the tenant, the notice should be mailed to the rental address, so it can be forwarded by the U.S. Postal Service.

How long a landlord must wait before selling abandoned property depends on the value of the goods. If the total value of property is less than \$50, the landlord must mail a notice of the sale to the tenant and then wait seven(7) days. Family pictures, keepsakes and personal papers cannot be sold until forty-five (45) days after the landlord mails the notice of abandonment to the tenant.

If the total value of the property is more than \$50, the landlord must mail a notice of the sale to the tenant and then wait forty-five (45) days. Personal papers, family pictures, and keepsakes can be sold at the same time as other property.

The money raised by the sale of the property goes to cover money owed to the landlord, such as back rent and the cost of storing and selling the goods. If there is any money left over, the landlord must keep it for the tenant for one (1) year. If it is not claimed within that time, it belongs to the landlord.

If a landlord takes a tenant’s property and a court later determines there had not actually been an abandonment, the landlord could be ordered to compensate the tenant for loss of the property, as well as paying court and attorney costs.

Within fourteen (14) days of learning of an abandonment, the landlord is responsible for either returning a tenant’s deposit or providing a statement of why the deposit is being kept.

ABANDONMENT RELATED TO EVICTION [RCW 59.18.312]

When a tenant has been served with a writ of restitution in an eviction action, the tenant will receive written notification of the landlord’s responsibilities regarding storing the tenant’s property that is left behind after the premises is vacant. Tenants will be provided with a form to request the landlord store the tenants’s property.

A landlord is required to store the tenant’s property if the tenant makes a written request for storage within three (3) days of service of the writ of restitution or if the landlord knows that the tenant is a person with a disability that prevents the tenant from making a written request and the tenant has not objected to storage. The written request for storage may be served by personal delivery, or by mailing or faxing to the landlord at the address or fax number identified on the request form provided by the landlord.

After the Writ of Restitution has been executed, the landlord may enter the premises and take possession of any of the tenant’s remaining belongings. Without a written request from the tenant, the landlord may choose to store the tenant’s property or deposit the tenant’s property on the nearest public property. If the landlord chooses to store the tenant’s property, whether requested or not, it may not be returned to the tenant until the tenant pays the actual or reasonable costs of moving and storage, whichever is less within thirty (30) days.

If the total value of the property is more than \$100.00, the landlord must notify the tenant of the pending sale by personal delivery or mail to the tenant’s last known address. After thirty (30) days from the date of the notice, the landlord may sell the property, including personal papers, family pictures, and keepsakes and dispose of any property not sold.

If the total value of the property is \$100.00 or less, the landlord must notify the tenant of the pending sale by personal delivery or mail to the tenant’s last known address. After seven (7) days from the date of the notice, the landlord may sell or dispose of the property except for personal papers, family pictures, and keepsakes.

The proceeds from the sale of the property may be applied towards any money owed to the landlord for the actual and reasonable costs of moving and storing of the property, whichever is less. The costs can-

not exceed the actual or reasonable costs of moving and storage, whichever is less. If there are additional proceeds, the landlord must keep it for the tenant for one (1) year. If no claim is made by the tenant for the recovery of the additional proceeds within one (1) year, the balance will be treated as abandoned property and deposited with the Washington State Department of Revenue.
