

## **ORDINANCE NO. C-36330**

An ordinance establishing a local program for assisting landlords and tenants in Spokane; enacting a new chapter 10.57 to Division II of Title 10; and amending sections 07.08.139, 08.01.160, 08.01.195, 08.01.270 and 08.02.0206 of the Spokane Municipal Code.

**WHEREAS**, the City of Spokane desires to codify regulations supporting housing security to reduce homelessness and to establish standards and enforcement mechanisms as they relate to rental housing within the municipal boundaries of the City of Spokane; and

**WHEREAS**, the City of Spokane desires to continue its long-term efforts to maintain healthy, vibrant and diverse neighborhoods within the City of Spokane; and

**WHEREAS**, the City of Spokane desires to balance the needs of landlords, tenants, and the City of Spokane to ensure a safe, healthy, and thriving rental housing market within the City's municipal boundaries; and

**WHEREAS**, providing housing for Spokane's residents directly impacts quality of life at the most basic level, and therefore requires regulations to ensure that this commercial venture is equitably undertaken for the mutual benefit of providers and consumers; and

**WHEREAS**, the City of Spokane desires to support increased housing security for current and future residents within the City of Spokane as a benefit to the overall public welfare of the City; and

**WHEREAS**, the City of Spokane desires to implement common-sense, baseline standards for the rental of residential real property in Spokane, and to streamline and make more affordable the process of obtaining rental housing by establishing portable background checks, tenant relocation, and landlord mitigation programs; and

**WHEREAS**, Washington State law and the Spokane Municipal Code ("SMC") already require owners and operators of rental residential properties to secure a business license; and

**WHEREAS**, the City of Spokane desires to use the general fund revenue generated from general business registrations and unit fees connected to the residential rental business sector to invest in improvements in this sector which is likely to increase overall general fund revenues and support the public welfare of the City; and

**WHEREAS**, Washington State law and the SMC already authorize the City's Code Enforcement Department to inspect residential properties within the City for compliance with state and municipal safety and habitability standards with the consent of the resident or by court order; and

**WHEREAS**, the City of Spokane desires to provide additional resources to Code Enforcement for dedicated inspectors and to the Office of Civil Rights, Equity and Inclusion and Department of Community, Housing and Human Services for a dedicated housing navigator to increase inspections, regardless of complaints, to identify and remedy unsafe and uninhabitable residential conditions regardless of a resident's willingness to risk making a formal complaint; and

**WHEREAS**, establishing a \$15 per residential rental unit registration fee will provide necessary funding for the additional resources necessary to implement various provisions of this ordinance, including the establishment of a public-facing resource website, creation of a housing navigator role and a residential rental unit registry, and employment of additional Code Enforcement staff for increased inspection-related work; and

**WHEREAS**, landlords may charge tenants the actual cost of the business registration fee.

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

**Section 1.** That there is enacted a new chapter 10.57 to Division II License Code of Title 10 of the Spokane Municipal Code to read as follows:

<b>Chapter 10.57</b>	<b>Regulation of Residential Rental Housing</b>
<b>SMC 10.57.010</b>	<b>Purpose and Intent</b>
<b>SMC 10.57.020</b>	<b>Business Licensing and Registration</b>
<b>SMC 10.57.030</b>	<b>Residential Rental Housing Navigator</b>
<b>SMC 10.57.040</b>	<b>Inspections</b>
<b>SMC 10.57.050</b>	<b>Appeals</b>
<b>SMC 10.57.060</b>	<b>Consistency with Chapter 59.18 RCW</b>
<b>SMC 10.57.070</b>	<b>Immunity, No Warranty by City of Spokane</b>
<b>SMC 10.57.150</b>	<b>Severability</b>

**Section 10.57.010 Purpose and Intent**

- A. The purpose of this chapter is to establish regulations supporting housing security to reduce homelessness and to establish standards and enforcement mechanisms as they relate to rental housing within the municipal boundaries of the City of Spokane. It is the intent of the Spokane City Council to continue its long-term commitment to maintain healthy, vibrant and diverse neighborhoods within the City of Spokane. The regulations contained in this chapter balance the needs of all community members to ensure safe, healthy, and thriving rental housing within the City's municipal boundaries. The City recognizes that the renting of residential property is a commercial venture that supplies the basic human need of adequate shelter. Providing housing for Spokane's residents directly impacts quality of life at the most basic level, and therefore requires regulations to ensure that this commercial venture is equitably undertaken to meet the shelter needs of City residents. This chapter attempts to ensure

housing security for current and future residents and the owners of rental residential properties within the City of Spokane by providing clear expectations and bridging gaps that current state laws and market conditions have created.

- B. In an effort to carry out that intent, the Spokane City Council has determined that it is necessary to implement baseline standards for the rental of residential real property in Spokane, and to streamline and make more affordable the process of obtaining rental housing by establishing portable background checks, tenant relocation, and landlord mitigation programs.
- C. Washington state law and the Spokane Municipal Code already require owners and operators of rental residential properties to secure a business license and 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.
- D. Washington Law and the Spokane Municipal Code already authorizes Code Enforcement to inspect residential properties within the City for compliance with state and municipal safety and habitability standards with the consent of the resident or by court order. 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.

### **Section 10.57.020 Business Licensing and Registration**

- A. 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 pursuant to subsection (C) of this section.
- B. The annual fee for registering the business activity of renting residential real property shall be the standard annual fee described in SMC 08.02.0206(A) 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.

- C. Application for a residential rental registration shall be made to the City through a web portal established by the City of Spokane IT Department. The application shall include the applicable registration fee set forth in SMC 08.02,0206(A) and paragraph (B) of this section, including late fees if applicable, a declaration of compliance as described in subsection (G) of this section and a complete 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, and such other information as required in order to carry out the intent of this chapter.
- D. A property management company may apply for and secure the required business registration on behalf of a residential rental property owner.
- E. A residential rental registration expires on December 31<sup>st</sup> of the calendar year following registration or renewal.
- F. 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.
- G. 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.
- H. Property owners or their property managers shall provide each tenant a digital link to the website established pursuant to SMC 10.57.030(B) and if the tenant doesn't have access to the internet advise them to call 311 for more information on tenant rights and responsibilities.

### **Section 10.57.030 Residential Rental Housing Navigator**

- A. The City of Spokane's Department of Community, Housing and Human Services or the Office of Civil Rights, Equity and Inclusion is authorized to publish a request for qualifications ("RFQ") from local entities that have the capability to serve as a housing navigator for landlords and tenants in the community and contract for services; or create a position within the department to accomplish the same function. 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.

- B. The City of Spokane’s department of Community, Housing and Human Services, in coordination with the City’s Office of Civil Rights, Equity and Inclusion, may establish a public-facing website that provides links to access a variety of resources for landlords and tenants, including tenant rights and responsibilities, a change of address form, and a voter registration form. The City will make the website compliant with Resolution 2022-0071, approved by the City Council August 1, 2022, ensuring its accessibility for languages most commonly spoken in Spokane. Request for additional reasonable accommodations to access the public-facing website may be made to the City’s department of Community, Housing and Human Services or Office of Civil Rights, Equity and Inclusion.

### **Section 10.57.040 Inspections**

- A. The City of Spokane’s Code Enforcement Department may conduct both periodic and cause-based inspections of all residential rental property that is subject to this chapter.
1. 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. The property selection process shall be based on a methodology adopted by the Director that will further the purpose of this chapter. The inspection shall review for compliance with the standards set forth in SMC 17F.070.400 and other applicable state and local statutes.
  2. 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.
  3. Code Enforcement will prioritize resources based on the level of safety sensitivity to be addressed by an inspection and available resources.
- B. No fees shall be assessed to landlords or tenants for the initial inspection authorized of this section.
1. 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 with the standards set forth in SMC 17F.070.400 and other applicable state and local statutes.

2. 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 as established in SMC 08.02.031(S).
  3. Failure to pay assessed fees will bar renewal of a residential rental unit business registration.
  4. At the discretion of the Director, 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. Additionally, the Director or designee of the Director 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.
  5. 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.
- C. Code Enforcement may utilize revenues received from business registrations pursuant to SMC 10.57.020, SMC 08.02.0206, and SMC 07.08.139 to:
1. Create at least three additional dedicated inspector positions for residential rental housing;
  2. To develop and maintain the rental registry described in SMC 10.57.020.

### **Section 10.57.050 Appeals**

- A. General. Appeals of registration denials, revocations, or suspensions; other final, written decisions or determinations made by the director under this chapter; 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 in the form specified in subsection (B) of this section at the city of Spokane permit center and paying the applicable appeal fee within 14 days of issuance of the decision.

- B. 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:
1. The decision being appealed and the date it was issued;
  2. Facts demonstrating that the person is adversely affected by the decision;
  3. A statement identifying each alleged error in the decision;
  4. The specific relief requested; and
  5. Any other information reasonably necessary to make a decision on the appeal.
- C. 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.
- D. 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.
- E. Upon revocation or suspension of any registration as provided in this chapter, no portion of the registration fee shall be refunded.

#### **Section 10.57.060 Consistency with Chapter 59.18 RCW**

The provisions of this chapter shall be interpreted and enforced in a manner that is consistent with the provisions of Chapter 59.18 RCW.

#### **Section 10.57.070 Immunity, No Warranty by City**

The purpose of this chapter is to promote the safety and welfare of the general public and not to create or designate any particular class of persons who will or should be specially protected by its terms. Nothing contained in this chapter is intended nor shall be construed to create any liability on the part of the city or its employees for any injury or damage resulting from the failure of an owner, landlord, inspector, or other individual to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the city or its employees. By enacting and undertaking to enforce this chapter, neither the city, its agents or employees, nor the city council warrant or guarantee the safety, fitness or suitability of any dwelling in the city or any unit inspected under this program. Owners,

landlords, and occupants shall take whatever steps they deem appropriate to protect their interest, health, safety and welfare.

### **Section 10.57.150 Severability**

Any portion of this ordinance that is determined by a competent adjudicator to be illegal or pre-empted shall be severed from this law and the balance of the law preserved.

**Section 2.** That section 07.08.139 of the Spokane Municipal Code is amended to read as follows:

### **Section 07.08.139 Code Enforcement Fund**

- A. There is established a special revenue fund entitled “code enforcement fund” into which shall be paid all revenues derived from code enforcement operations and seventy percent of all business registration fees received by the City that include at least one registration for a residential rental unit, including any annual per residential rental unit fees.
- B. As provided in the annual budget, the code enforcement fund is appropriated to salaries and wages, maintenance and operations, debt service and capital improvements. The city council may also provide for additional revenues to be paid into such fund from time to time from any available funds of the City.
- C. The funds received from landlord registration business registration fees and per residential rental unit fees in Section A shall be used exclusively to fund the rental registry and the expenses related to the investigation, enforcement and housing navigation services related to the state and municipal laws related to the habitability and safety of residential rental units and laws governing the relationships between landlords and tenants for properties located within the City of Spokane.

**Section 3.** That section 08.01.160 of the Spokane Municipal Code is amended to read as follows:

### **Section 08.01.160 Multiple Businesses or Locations**

- A. Except as otherwise provided in this paragraph, when a registrant operates two or more businesses in the City, or two or more business locations within the City, whether or not related, a separate City business registration is required for each business or business location. For purposes of this paragraph, 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 as required in SMC 10.57.020(B).



- B. If a single business has at least one permanent location in the City and also conducts business on a temporary or seasonal basis from temporary or mobile locations, such as from portable stands or vehicles, the registrant must obtain a secondary location registration for each such location or stand or vehicle directly from the City as provided in SMC 8.01.070.
1. To the extent such temporary or mobile activities include those activities defined in SMC 10.40.010 (Itinerant Vendor Designation) the requirements of that chapter shall also apply.
  2. The chief of police may temporarily suspend or relocate a secondary location registration allowing business activity on or adjacent to a public street or other public place within the boundaries of a permitted special event under chapter 10.39 SMC when such business activity may conflict with the special event.

**Section 4.** That section 08.01.195 of the Spokane Municipal Code is amended to read as follows:

**Section 08.01.195 Engaging in Business Criteria**

- A. This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in SMC 08.01.020. If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.
- B. Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.
1. Owning, making available for rent or lease, renting or leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property, including residential rental property, permanently or temporarily located in the City.
  2. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.

3. Soliciting sales.
4. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
5. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
6. Installing, constructing, or supervising installation or construction of, real or tangible personal property.
7. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
8. Collecting current or delinquent accounts.
9. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
10. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.
11. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.
12. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
13. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.
14. Investigating, resolving, or otherwise assisting in resolving customer complaints.

15. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
  16. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
- C. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license.
1. Meeting with suppliers of goods and services as a customer.
  2. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
  3. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
  4. Renting tangible or intangible property as a customer when the property is not used in the City.
  5. Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.
  6. Conducting advertising through the mail.
  7. Soliciting sales by phone from a location outside the City.
- D. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in SMC 08.01.195 B.
- E. The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the

constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

**Section 5.** That section 08.02.0206 of the Spokane Municipal Code is amended to read as follows:

**Section 08.02.0206 Business Registrations**

- A. A regular business registration basic fee is one hundred twenty dollars (\$120) per twelve-month period. Beginning on January 1, 2023, the regular business registration basic fee shall be one hundred twenty-seven (\$127) per twelve-month period.
- B. The basic fee for a nonresident business registration is one hundred twenty dollars (\$120) dollars per twelve-month period. Beginning on January 1, 2023, the basic fee for a nonresident business registration shall be one hundred twenty-seven (\$127) per twelve-month period.
- C. In addition to the basic registration fee, each business registrant must pay an additional fee of \$15 per unit per license year subject to the exception in subsection (F) of this section.
- D. 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):
  - 1. Businesses with fewer than six personnel in total: Ten dollars per person.
  - 2. Businesses with six to ten personnel in total: Fifteen dollars per person.
  - 3. Businesses with more than ten personnel in total: Twenty dollars per person.
- E. 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, as provided in chapter 08.01 SMC.

- F. For businesses qualifying under SMC 08.01.190(A) (low gross income businesses) for a reduced registration fee, the reduced business registration fee is one-half the basic registration fee, but all applicable personnel, inspection, or other applicable fees or charges apply in full.
- G. For businesses qualifying under SMC 08.01.190(B) (nonprofit organizations) for a reduced registration fee, the reduced business registration fee is one-half the basic registration fee. Nonprofit businesses are exempt from personnel and residential rental unit fees.
- H. For businesses qualifying under SMC 08.01.190(C) (social purpose corporations) for a reduced registration fee, the reduced business registration fee is one-half the basic registration fee.
- I. For businesses qualifying under SMC 08.01.190(D) (Certified B Corporations) for a reduced registration fee, the reduced business registration fee is one-half the basic registration fee.
- J. Any Certified B Corporation certified by B Lab is exempt from personnel fees.
- K. Annual Fee Adjustment.

Effective January 1, 2011, and the first of January of each year thereafter, the business registration fees set forth in this section may be adjusted by the Chief Financial Officer by an amount equal to the consumer price index adjustment of the previous July – July U.S. All City Average (CPI-U and CPI-W). The newly determined amount shall be rounded up to the nearest dollar. In addition, the proposed adjusted fees shall be presented to the City Council for approval by ordinance and a copy of the approved fees filed with the Chief Financial Officer before becoming effective. The annual fee adjustment provided for in this section shall not apply to the personnel fee stated in SMC 08.02.0206(C).

- L. For businesses qualifying under SMC 08.01.190 E, there shall be no business registration fee.
- M. For initial business registrations filed from the effective date of this section until December 31, 2022, the business registration fee stated in SMC 08.02.0206(A) and the personnel fee stated in SMC 08.02.0206(c) are each reduced by 50%.

**Section 6.** That section 08.01.270 of the Spokane Municipal Code is amended to read as follows:

**Section 08.01.270 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 pursuant to chapter 1.05 SMC.

For registrants subject to SMC 10.57.020, failure to comply with the residential rental registry requirement set forth in SMC 10.57.020(E) 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 pursuant to chapter 1.05 SMC.

**PASSED** by the City Council on \_\_\_\_\_.

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

Attest:

Approved as to form:

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date

