**ORDINANCE NO. C-36330**

An ordinance establishing a local program for assisting landlords and tenants in Spokane; enacting a new chapter 10.57 and new sections 07.08.145 and 07.08.150; and amending sections 07.08.139, 08.01.160 08.01.195 and 08.02.0206 of the Spokane Municipal Code.

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

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

**Chapter 10.57 Regulation of Residential Rental Housing**

**Section 10.57.010 Purpose and Intent**

1. The City of Spokane, as a municipal government, has a duty to protect public safety to foster safe, livable, and affordable housing for everyone.
2. In an effort to discharge that responsibility, the Spokane City Council has determined that it is necessary 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.
3. Washington Law and the Spokane Municipal Code already requires 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 benefits landlords and tenants and increase the supply of habitable residential rental housing.
4. 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 and ombuds to increase inspections regardless of complaints to identify and remedy unsafe and uninhabitable residential conditions regardless of a resident’s willingness to risk complaining.

**Section 10.57.020 Business Licensing and Registration**

1. All activity of renting or leasing residential real property requires a City of Spokane business license, as described in SMC 08.01.070 and SMC 08.01.195(B)(17).
2. The annual fee for registering the activity of renting residential real property shall be the standard annual fee described in SMC 08.02.0206(A).
3. By way of applying for or renewing a City of Spokane business license, owners of residential rental housing units are required to register every rental unit and its street address located in City of Spokane annually and certify that each property meets the requirements of RCW 59.18.060, except for situations in which the property owner lives in the same building in which the property owner also rents no more than two units within the same building. Owners of a home who rent out an unattached accessory dwelling unit on their property must register that rental unit, even if the owner resides in the main house on that same property. A property management company may apply for and secure the required business license on behalf of a residential rental property owner.

1. The City of Spokane Utility Department shall provide to each new City of Spokane utility customer or utility customer with a new address a digital link of a voter registration form, a change of address form, and a tenant information packet about tenant rights and responsibilities and local resource organizations developed by Code Enforcement with the advice and recommendations of landlord, tenant and social service housing organizations.

**Section 10.57.030 Record Maintenance**

1. Any entity or individual operating rental housing shall annually provide to the city at no cost through an online portal a comprehensive list of individual units under their ownership, including the relevant addresses, whether market rate or below market rate, and whether occupied or unoccupied.
2. Any entity or individual operating rental housing shall maintain all move-in and move-out inspection records for at least three years and make them available to city officials upon request.

**Section 10.57.040 Landlord Walkthroughs/Inspections**

1. Prior to any rental occupancy, the landlord or owner or manager of residential rental real property shall self-inspect the unit ensuring it meets the requirements of applicable building and housing codes impacting health, safety, and livability.
2. The landlord or owner or manager of residential rental real property shall make all necessary repairs to keep the premises in habitable condition as defined by the Spokane Municipal Code before a tenant may occupy the unit.
3. Execution of any rental agreement shall act as certification by the landlord or owner or manager of residential rental real property that all relevant state and municipal building and housing codes impacting health, safety, and habitability are met.

**Section 10.57.050 Code Enforcement Inspections**

1. The City of Spokane’s code enforcement department shall use its longstanding legal authority to conduct both routine periodic and cause-based inspections of all residential rental property that is subject to this chapter.
	1. Periodic inspections shall be conducted at a frequency to be determined by the code enforcement department, subject to appropriations, and subject a determination by the code enforcement department as to which units or classes of units of residential real property are most likely to be out of compliance with the existing building and preservation code, chapter 17F.070, SMC.
	2. In addition to periodic inspections, the code enforcement department may conduct cause-based inspections upon its receipt of a complaint of violations by any person of the existing building and preservation code or for violations of any provision of the residential landlord-tenant act (“RLTA”), pursuant to a request under RCW 59.18.115, or in response to a credible report of possible violations of municipal or state law.
2. Code enforcement shall not impose a fee or charge to landlords or tenants for the cost of the inspection itself.
3. All inspections by Code Enforcement of the interior of a residential unit must be made with the consent of the tenant or upon the authority of an order of a court with jurisdictional and constitutional authority to provide such an order.
4. Code Enforcement shall utilize the additional financial resources secured under this chapter to create dedicated inspectors for residential rental housing, who also act as ombuds and facilitators to resolve conflicts between tenants, landlords and property managers and support education and voluntary compliance with the Spokane Municipal Code while enforcing all available remedies for those individuals who willfully refuse to comply.

**Section 10.57.060 Proactive Code Enforcement.**

1. Purpose and Intent.
2. The purpose of a proactive code enforcement program is to address the issues of substandard residential rental properties, the preservation of quality neighborhoods, preventing neighborhood blight, graffiti abatement, illegal dumping, towing of abandoned vehicles, illegal parking and greater compliance with health and safety standards that preserves the quality of neighborhoods and availability of habitable housing.
3. The program achieves compliance of health, safety and welfare code violations in and on residential rental properties that are a threat to the occupant’s safety, structural integrity of the building, and a negative impact on the surrounding neighborhoods.
4. Program requirements.
5. Code enforcement shall initiate a full proactive inspection of all rental units owned by a landlord when:
6. At least three (3) units have housing code violations confirmed in two or more separate properties (totaling at least 6 units in violation) within an 18 month time period; or,
7. At least five (5) housing code violations are confirmed on a single property within 18month time period; or,
8. At least three (3) single family detached or duplex units have housing code violations confirmed.
9. Code enforcement shall initiate a full pro-active building inspection of all rental units owned by a landlord when:
10. At least Three (3) units have housing code violations confirmed in a 12 month time period; or,
11. When any life, serious health or serious habitability violation in a unit is confirmed.
12. The proactive code enforcement program and other residential rental inspections shall be funded via the code enforcement fund established by SMC 07.08.139.
13. Code Enforcement will continue to provide inspections and reports authorized under state law at tenant request at no charge to landlords or tenants.

**Section 10.57.070 Code Enforcement Rental Housing Ombuds Services**

1. The City of Spokane Department of Code Enforcement shall provide Housing Ombuds services to serve two primary purposes:

1. Support tenants in the City of Spokane by:

1. Mediating between tenants and landlords.
2. Forwarding concerns about compliance with residential landlord tenant laws, safety and habitability to code enforcement for action.
3. Advocating to Code Enforcement and City Legal to require that any repairs or remediation of violations of state or municipal law occur in a timely manner.
4. Supporting identification of alternative housing arrangements for tenants before homelessness due to eviction occurring.

2. Support landlords in the City of Spokane by:

1. Assisting the landlord in communicating with difficult tenants.
2. Assisting the landlord in accessing dollars from mitigation funds when eligible.
3. Assisting the landlord in avoiding eviction of a tenant by interceding and helping place the tenant in alternative accommodations or housing stability services, including transitional housing.

B. If the landlord is unresponsive (in addition to penalties) and the employees providing Housing Ombuds services are unable to identify alternative housing arrangements, the city may make the necessary repairs to the property from the mitigation fund and collect reimbursement plus interest and attorney fees through a lien on the property.

C. The City of Spokane Housing Ombuds services shall be funded via the business license fees received by the City that include at least one registration for a rental unit within the code enforcement fund established at SMC 07.08.139.

**Section 10.57.080 Tenant Disclosures**

1. Prior to entering into a lease or rental agreement, the landlord. owner or manager of residential rental real property must disclose to prospective tenants whether the unit has had a history of mold, any remediation, and whether the landlord has been informed by past tenants of any health concerns related to mold.
2. The landlord or owner or manager of residential rental real property must disclose to tenants whether the property is actively for sale and in the event that the property is sold, the landlord or owner or manager of residential rental real property must provide all contact information for the new owner to tenants.
3. The landlord or owner or manager of residential rental real property must disclose any known history of methamphetamine manufacturing on the premises.

**Section 10.57.090 Habitable Dwelling Unit Requirements**

1. The landlord or owner or manager of residential rental real property shall:
	1. Promptly comply with the requirements of applicable state and municipal building and housing codes impacting health and safety, including making all repairs to keep the premises in a habitable condition.
	2. Ensure all common areas are clean and structurally safe.
	3. Maintain all electrical, plumbing (hot and cold running water), sanitary, heating, ventilation, central air conditioning (if installed), or alternatively other air conditioning type units, and other facilities and appliances.
	4. Maintain the premises in such condition to prevent the growth of mold and promptly respond to any notices from a tenant or city official. If mold is visible or detected the landlord shall promptly remediate and remedy the underlying cause of the mold.
	5. Provide all necessary outdoor receptacles with adequate capacity to collect all garbage, rubbish, or other waste.
	6. Notify tenant(s) at least 72 hours in advance of any planned disruption to any basic utility services they utilize including, water, garbage, natural gas, and electricity.
	7. Ensure all smoke alarms and carbon monoxide alarms are present, working, and inspected every 12 months.
2. In addition to the requirements and expectations included in the rental agreement, the tenant(s) shall:
	1. Maintain a clean and safe premises.
	2. Keep the dwelling unit free from insects and pests and promptly notify the landlord or owner or manager of insects and pests.
	3. Maintain the dwelling free from garbage, rubbish, and other waste by promptly utilizing the landlord provided receptacles.
	4. Keep all utility services, identified as the responsibility of the tenant within the rental agreement, as paid and current.
	5. Keep all plumbing fixtures clean and intact.
	6. Ensure no deliberate or negligent destruction of property occurs.
	7. Use and maintain all appliances as intended and immediately report any malfunction or wear and tear preventing proper use to the landlord or owner or manager.
	8. The tenant shall not tamper with any smoke alarm or fire extinguishing apparatus and shall report any issues or concerns with inoperability immediately to the landlord or owner or manager.
	9. The tenant shall not tamper with any carbon monoxide alarm and shall report any issues or concerns with inoperability immediately to the landlord or owner or manager.
	10. Use reasonable effort to maintain the dwelling unit in such a condition as to prevent accumulation of moisture and the growth of mold, including the regular use of all installed ventilation equipment provided for such purpose. The tenant shall immediately notify the landlord or owner or manager of any moisture accumulation that occurs, or any evidence of mold discovered.
	11. Only make permanent alterations to the dwelling unit with written approval of the landlord or owner or manager.
	12. Not disturb the peaceful enjoyment of the premises by neighbors.
	13. Be responsible for the conduct of all other persons, whether known by the tenant or not, who are on the promises with the tenant’s consent.
	14. Abide by all reasonable rules and regulations imposed by the landlord or owner or manager.

**Section 10.57.100 Compliance with City Officials**

1. The landlord or owner or manager of residential rental real property shall:

1. Comply with all requests of code enforcement staff authorized by state or municipal law.

2. Upon the execution of a pro-active investigation by code enforcement, comply with all legally authorized directives and requests within the timeframe provided.

3. Respond to any city official’s notification of emergent life, health, safety concerns within 72 hours.

4. Respond to any city official’s notification of non-emergent life, health, safety concerns within 14 days.

5. Failure of the landlord or owner or manager to timely respond to any city official’s legally authorized directives shall result in the issuance of a Minor Infraction 1 for the first violation, a Minor Infraction 2 for any violation within one year of the first violation and a Major Infraction 2 for any violation in excess of three violations in any calendar year.

 B. The tenant(s):

May utilize the city housing ombuds services to act as their intermediary in situations where direct communication by the tenant to the landlord is of concern.

**Section 10.57.101 Portable Background and Credit Checks**

1. Purpose and Intent.

The screening of a prospective tenant's rental history, financial history, and criminal background is a common aspect of renting residential real property.

While tenants usually pay a fee associated with this screening each time they apply for a unit, state law requires that fees collected can only cover the actual cost of screenings performed. Multiple applications for rental housing currently require prospective tenants to pay multiple fees which can be burdensome to prospective tenants, especially in a tight rental market, and in any event do not provide any financial benefit to landlords.

The intent of this section is to ensure landlords get the data they need to make an informed decision about a prospective tenant at no cost to the landlord and in compliance with state law, while ensuring that prospective tenants are not unduly burdened by the need to pay multiple background and credit check fees.

B. Portable background and credit checks program.

* 1. No later than one hundred twenty (120) days from the effective date of this section, the City of Spokane’s department of neighborhood services and code enforcement shall publish a request for qualifications (“RFQ”) from organizations that have the capability to provide certified universal background and credit checks.
	2. The content of the report must comply with state and federal laws and housing requirements and would be decided by the Spokane City Council upon the recommendation of an advisory group that must include representatives from the landlord, tenant and social services housing organizations.
	3. All portable background and credit checks conducted under this section shall be valid for ninety (90) days from the date of issuance, and, beginning on January 1, 2024, and except as otherwise provided in this section, all landlords renting residential real property located in Spokane shall be required to accept a timely portable background and credit check report when making decisions concerning whether to rent to a prospective tenant.
	4. Prospective tenants are responsible for paying the fee for the portable background and credit check and landlords cannot be charged for it.
	5. Notwithstanding the remainder of this section, landlords may use a second background and credit screening service other than the portable background and credit check service established by this section, but shall not impose any additional fee on a prospective tenant for conducting a second check.
	6. Nothing in this section restricts a landlord from asking a prospective tenant about their criminal, credit or rental history, or making a decision on whether or not to rent to an individual based on that history.

**Section 10.57.102 Residential Rental Property Mitigation Program.**

1. The department of code enforcement shall operate a rental property mitigation program, which is intended to assist in the repair of residential rental properties that are damaged during a tenancy where a government or nonprofit operated program, that provides housing support to low income individuals, referred the tenant to the landlord or provided a portion of their rent or damage deposit, and through no fault of the landlord.
2. The department of neighborhood services and code enforcement is authorized to establish public rules for the operation of the rental property mitigation fund, and shall publish and accept public comment on such rules for sixty (60) days prior to the effective date of the rules for the program.
3. The City’s fund will be supplemental to any similar state or federal program, and will only be used after the applicant has completed a timely and complete application for those funds, exhausted the tenant’s damage deposit, and still has not been fully compensated for the damage.

# Section 10.57.103 Legal Services and Relocation Program

1. City of Spokane will invest in attorney services for tenant legal services and mediation costs, with a focus on habitability and violations of the Residential Landlord Tenant Act (“RLTA”) issues. The city investment would provide seed money for first year of salary and benefits for an attorney and reasonable litigation costs, including mediation fees, and then legal fees from successful representation would sustain the attorney(s) and funds for costs for the long term. The fund will also provide immediate relocation funds to tenants living in rental units that in the reasonable judgment of the program attorney are below the standards of habitability and likely to be able to recover relocation funds from their landlord.
2. Program requirements:
3. Focus on units that clearly fall below standard of habitability in consultation with Code Enforcement and violations of the RLTA.
4. Provide prompt relocation funds from City directly to the tenant once it appears that landlord will likely be liable under state law and then collect from the landlord and any settlement funds a reimbursement to the relocation funds used to fund the attorney positions.
5. Build capacity for needed services.

# Section 10.57.104 Anti-Retaliation Protections

1. Purpose and Intent.

Due to fears of retaliation, tenants may fear speaking up about housing habitability issues or organizing as tenants. State law provides some protection against retaliation, but the City of Spokane intends to provide additional protections.

1. Prohibition on retaliation.

1. No landlord or owner or manager of residential rental real property in Spokane may intimidate any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by the fair housing laws, or engaging in political speech or political organizing.

2. No person may threaten any employee or agent with dismissal or an adverse employment action, or take such adverse employment action, for any effort to assist any person in the exercise of their fair housing rights.

3. For purposes of this section, “fair housing laws” and “fair housing rights” include the federal Fair Housing Act, the Washington Law Against Discrimination, and Title 18 of the Spokane Municipal Code.

4. If the City of Spokane Housing Ombudsman, or their designee, determine that a landlord has retaliated against a tenant for making a complaint, the landlord may be cited the maximum available penalty.

**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**

1. 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 license fees received by the City that include at least one registration for a residential rental unit.
2. 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.
3. The funds received from landlord registration business license fees shall be used exclusively to fund expenses related to the investigation, enforcement and ombuds function of laws related to the habitability and safety of residential rental units within the City of Spokane.

**Section 3.** That there is enacted a new section 07.08.145 of the Spokane Municipal Code to read as follows:

**Section 07.08.145 Residential Rental Property Mitigation Fund**

1. There is established a special revenue fund entitled the “residential rental property mitigation fund” into which shall be paid 10% of fees from business licenses that have at least one listed residential rental property each year for five calendar years (2023-2027) to seed the fund and then it shall thereafter be maintained with 100% proceeds from substandard housing enforcement actions.
2. As provided in the annual budget, the “residential rental property mitigation fund” is appropriated to provide for payment of repairs to units of residential real property in Spokane which are damaged during a residential tenancy and not due to the fault of the landlord, as established by SMC 10.57.060. 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, including an initial investment of startup money.

**Section 4.** That section 08.01.160 of the Spokane Municipal Code is amended to read as follows:

**Section 08.01.160 Multiple Businesses or Locations**

1. 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).
2. 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 5.** That there is enacted a new section 07.08.150 of the Spokane Municipal Code to read as follows:

# Section 07.08.150 Legal Services and Relocation Fund

1. There is established a special revenue fund entitled the “legal services and relocation fund” into which shall be paid two percent of all 1/10 sales tax revenues authorized by HB 1590 each year for five calendar years (2023-2027) to seed the fund and then it shall thereafter be maintained with 100% proceeds from substandard housing enforcement actions by the Legal Services and Relocation Program.
2. As provided in the annual budget, the “legal services and relocation fund” is appropriated to provide for legal services and relocation funds arising out of rental units that fall below standards of habitability, as established by SMC 10.57.070. 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.

**Section 6.** That section 08.01.195 of the Spokane Municipal Code is amended to read as follows:

[Section 08.01.195](https://my.spokanecity.org/smc/?Section=08.01.195)**Engaging in Business Criteria**

1. 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.
2. 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.
3. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.
4. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.
5. Soliciting sales.
6. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
7. 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.
8. Installing, constructing, or supervising installation or construction of, real or tangible personal property.
9. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
10. Collecting current or delinquent accounts.
11. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
12. 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.
13. 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.
14. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
15. 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.
16. Investigating, resolving, or otherwise assisting in resolving customer complaints.
17. 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.
18. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
19. Renting or leasing real property residential units to others.
20. 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.
21. Meeting with suppliers of goods and services as a customer.
22. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
23. 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.
24. Renting tangible or intangible property as a customer when the property is not used in the City.
25. 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.
26. Conducting advertising through the mail.
27. Soliciting sales by phone from a location outside the City.
28. 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.
29. 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 7.** 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.

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

 Council President

Attest: Approved as to form:

City Clerk Assistant City Attorney

Mayor Date

 Effective Date