



Legislation Text

File #: CB 118817, Version: 4

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to residential rental properties; amending Sections 7.24.020, 7.24.030, 7.24.040, 7.24.050, 7.24.060, 7.24.070, and 7.24.080 of the Seattle Municipal Code (SMC); adding new Sections 7.24.035, 7.24.036, 7.24.038, 7.24.110, 7.24.120, 7.24.130, 7.24.140, 7.24.150, 7.24.160, 7.24.170, 7.24.180, 7.24.190, 7.24.200, and 7.24.210 to the SMC; and repealing Section 7.24.090 of the SMC; all to limit the amount of security deposits and non-refundable move-in fees, to allow residential tenants to pay security deposits, non-refundable move-in fees, and last month's rent in installments, and to establish enforcement provisions for Chapter 7.24.

WHEREAS, before moving into a rental unit, landlords typically require that tenants pay some type of security deposit to ensure that the tenant will comply with certain provisions of the rental agreement, such as payment for damage to the dwelling unit or cleaning the unit when the tenant vacates the unit; and

WHEREAS, before moving into a rental unit, landlords sometimes also require payment of non-refundable fees such as fees for tenant screening reports or cleaning; and

WHEREAS, before moving into a rental unit, landlords typically require that tenants prepay the last month's rent; and

WHEREAS, rents in Seattle have been increasing rapidly and vacancies in rental housing are at low levels, making it increasingly difficult for tenants, especially those with limited finances, to obtain rental housing; and

WHEREAS, rent increases may cause a tenant to move due to inability to pay the increased rent; and

WHEREAS, these conditions in the rental market have created a relocation crisis, because tenants, especially those with limited finances, may be unable to save money to pay security deposits, non-refundable move-in fees, and last month's rent; and

WHEREAS, payment of security deposits, nonrefundable move-in fees, and last month's rent in advance of tenancy, especially for people with limited finances, is one of the barriers to obtaining housing; and

WHEREAS, limiting the amount a landlord can charge for a security deposit and non-refundable move-in fees will help reduce this barrier and allow people to prepare for moving expenses with more certainty; and

WHEREAS, allowing tenants to pay security deposits, non-refundable move-in fees, and last month's rent in installments will help reduce this barrier; and

WHEREAS, the City Council finds that this ordinance will protect and promote the health, safety, and welfare of the general public; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 7.24.020 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

7.24.020 Definitions

* * *

"Director" means the Director of the Seattle Department of Construction and Inspections or the Director's designee.

"Hearing Examiner" means the official appointed by the Council and designated as the Hearing Examiner, or that person's designee (Deputy Hearing Examiner, Hearing Examiner Pro Tem, etc.).

* * *

"Landlord" means ((a "landlord" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 ("RLTA") in effect at the time the rental agreement is executed. At the time of passage of the ordinance codified in this chapter, RLTA defined "landlord" as "the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part," and included "any person designated as representative of the landlord)) the owner, lessor, or sublessor of the dwelling unit or the property

of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager."

"Last month's rent" means money that is paid as rent for the last month of a residential tenancy and that is paid at the inception of the tenancy or in installments as authorized by Section 7.24.036.

"Month-to-month tenancy" means a residential tenancy of an indefinite period with monthly or other periodic rent reserved.

"Non-refundable move-in fees" means non-refundable fees paid by a tenant to reimburse a landlord for the cost of obtaining a tenant screening report, criminal background check, or credit report or to pay for cleaning of the dwelling unit upon termination of the tenancy, but does not include payment of a reservation fee authorized by RCW 59.18.253(2).

"Person" means any individual, firm, corporation, association, governmental entity, or partnership and its agents or assigns.

"Pet damage deposit" means money that is paid by the tenant to the landlord at any time as security to pay for damage to the landlord's property that is caused by a pet for which the tenant is responsible.

* * *

"Security deposit" means any payment, fee, charge, or deposit of money paid to the landlord by the tenant at the beginning of the tenancy as a deposit and security for performance of the tenant's obligations in a written rental agreement, but does not include payment of a reservation fee authorized by RCW 59.18.253(2) or a payment to assure the payment of rent, provided that a security deposit may be applied to rent as provided in Section 7.24.030. Security deposits include payments, charges, or deposits for the purpose of:

1. Repairing damage to the premises, exclusive of ordinary wear and tear, caused by the tenant, or by a guest or licensee of the tenant.
2. Compensating the landlord for the tenant's breach of the tenant's duties prescribed in the rental agreement to restore, replace, or return personal property or appurtenances.

3. Compensating the landlord for the tenant's failure to return keys to the premises, except that a landlord shall not retain any portion of the deposit for keys for lock mechanisms that must be changed upon a change of tenancy pursuant to subsection 22.206.140.A.7.

* * *

Section 2. Section 7.24.030 of the Seattle Municipal Code, last amended by Ordinance 119171, is amended as follows:

7.24.030 Rental agreement requirements ((-))

A. Any rental agreement or renewal of a rental agreement for a residential rental unit in ~~((the))~~ The City of Seattle entered into after ~~((the effective date of the ordinance adding this subsection A))~~ October 28, 1998, shall include or shall be deemed to include a provision requiring a minimum of ~~((sixty (60)))~~ 60 days' prior written notice whenever the periodic or monthly housing costs to be charged a tenant ~~((is))~~ are to increase by ten ~~((10))~~ percent or more over the periodic or monthly rental rate charged the same tenant for the same housing unit and same services for any period or month during the preceding ~~((twelve (12)))~~ 12-month period.

B. No rental agreement entered into after ~~((the effective date of the ordinance codified in this chapter))~~ September 29, 1993, that creates or purports to create a tenancy from month to month or from period to period on which rent is payable, may:

1. Require occupancy for a minimum term of more than one ~~((1))~~ month or period;

2. Impose penalties, whether designated as "additional rent" or fees, if a tenant terminates the tenancy pursuant to law and vacates before expiration of any minimum term prohibited by subsection ~~((B(1) of this section))~~ 7.24.030.B.1;

3. Require forfeiture of all or any part of a deposit if the tenant terminates the tenancy pursuant to law and vacates before expiration of any minimum term prohibited by subsection ~~((B(1) of this section))~~ 7.24.030.B.1; provided, that nothing in this ~~((chapter))~~ Chapter 7.24 shall prevent a landlord from retaining all or a portion of a deposit as compensation for damage to the premises as provided by law and the

rental agreement or, as provided by law, for failure to perform other obligations imposed by the rental agreement.

C. Any rental agreement entered into after the effective date of the ordinance introduced as Council Bill 118817 is subject to the requirements of this subsection 7.24.030.C. Security deposits and non-refundable move-in fees are prohibited unless authorized by and identified in a written rental agreement that:

1. Describes the terms and conditions under which the security deposit or portion thereof may be retained by the landlord. The landlord shall prepare and provide to the tenant at the commencement of tenancy a written checklist or statement specifically describing the condition and cleanliness of or existing damages to the dwelling unit at the time of occupancy including damages to the premises and furnishings, which include but are not limited to walls, floors, countertops, carpets, drapes, furniture, and appliances. The checklist or statement shall be signed and dated by the landlord and the tenant, and the tenant shall be provided with a copy of the signed checklist or statement.

2. Describes the terms and conditions of the payment schedule for the security deposit and non-refundable move-in fees pursuant to subsection 7.24.035.C.

D. Any rental agreement entered into after the effective date of the ordinance introduced as Council Bill 118817 is subject to the requirements of this subsection 7.24.030.D. Any payment of last month's rent by the tenant to the landlord shall be authorized by a written rental agreement that:

1. Identifies the amount of the last month's rent; and
2. Describes the terms and conditions of the payment schedule for the last month's rent if the tenant elects to pay the last month's rent in installments as authorized by Section 7.24.036.

E. Any rental agreement entered into after the effective date of the ordinance introduced as Council Bill 118817 shall describe the terms and conditions of any monthly or periodic payments required as a condition of tenancy, including but not limited to: rent, security deposits, non-refundable move-in fee, last month's rent, utility payments, parking charges, late fees authorized by the rental agreement, or other monthly

or periodic payments required to be made by the tenant to the landlord. When any monthly or periodic payment is made pursuant to the rental agreement, the landlord shall first apply the payment to the rent due before applying it to other payments due by the tenant to the landlord, except that if the payment is made in response to a notice issued pursuant to RCW 59.12.030 during the period of that notice, the landlord shall first apply the payment to the amount specified in that notice, before applying it to the rent due or to other payments due by the tenant to the landlord.

F. Any rental agreement entered into after the effective date of the ordinance introduced as Council Bill 118817 is subject to the requirements of this subsection 7.24.030.F. Any payment of a pet damage deposit shall be authorized by a written rental agreement, or an addendum to the written rental agreement, that:

1. Identifies the amount of the pet damage deposit; and
2. Describes the terms and conditions of the payment schedule for the pet damage deposit if

the tenant elects to pay the pet damage deposit in installments as authorized by Section 7.24.038.

Section 3. New Sections 7.24.035, 7.24.036, and 7.24.038 are added to the Seattle Municipal Code as follows:

7.24.035 Security deposits and nonrefundable move-in fees

A. Limit on the amount of charges for security deposits and non-refundable move-in fees. After the effective date of the ordinance introduced as Council Bill 118817, the total amount of a security deposit and nonrefundable move-in fees may not exceed the amount of the first full month's rent for the tenant's dwelling unit. If rent is not paid or otherwise apportioned on a monthly basis, then for the sole purpose of applying this limit the total rent shall be pro-rated on an equal, monthly basis and the total charge to a tenant for the cost of a security deposit and nonrefundable move-in fees may not exceed the pro-rated, monthly rental amount.

B. Restrictions on fees

1. Other than non-refundable move-in fees, security deposits, pet security deposits, and last month's rent, landlords are prohibited from charging tenants any one-time fee at the beginning of the tenancy.

2. Pursuant to RCW 59.18.257, any fees charged to a prospective tenant by the landlord for the cost of obtaining a tenant screening report cannot exceed the actual cost of obtaining the report, which may not exceed the customary costs charged by a tenant screening service in The City of Seattle. The landlord shall provide, personally or by mail, the prospective tenant with a receipt for any fees charged for the cost of obtaining the screening report. The landlord shall provide the tenant with the name and address of the reporting agency and the prospective tenant's rights to obtain a free copy of the consumer report, pursuant to RCW 59.18.257.

3. If the tenant has paid a non-refundable move-in fee for cleaning, the landlord may not deduct additional cleaning fees from the tenant's security deposit.

4. The total amount of non-refundable move-in fees may not exceed ten percent of the first full month's rent, except that if the cost of a tenant screening report exceeds ten percent of the first full month's rent, the amount in excess of ten percent may be included in the non-refundable fee but may not exceed the customary costs charged by a screening service in The City of Seattle.

C. Fee payments in installments. Except as provided in subsection 7.24.035.C.4, tenants may pay security deposits and non-refundable move-in fees in installments as provided below. Landlords may not impose any fee, charge any interest, or otherwise impose a cost on a tenant because a tenant elects to pay in installments.

1. For any rental agreement term that establishes a tenancy for six months or longer, the tenant may elect to pay the security deposit and non-refundable move-in fees, excluding any payment made by a tenant to the landlord prior to the inception of tenancy to reimburse the landlord for the cost of obtaining a tenant screening report, in six consecutive, equal monthly installments that begin at the inception of the tenancy or, the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement.

2. For any rental agreement term that establishes a tenancy between 30 days and six

months, the tenant may elect to pay the security deposit and non-refundable move-in fees, excluding any payment made by a tenant to the landlord prior to the inception of tenancy to reimburse the landlord for the cost of obtaining a tenant screening report, in no more than four equal amounts that begin at the inception of the tenancy and are paid in installments of equal duration or, the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement.

3. For any rental agreement term that establishes a tenancy from month to month, the tenant may elect to pay the security deposit and non-refundable move-in fees, excluding any payment made by a tenant to the landlord prior to the inception of tenancy to reimburse the landlord for the cost of obtaining a tenant screening report, in two equal installments. The first payment is due at the inception of the tenancy and the second payment is due on the first day of the second month or period of the tenancy or, the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement.

4. The tenant cannot elect to pay the security deposit and non-refundable move-in fees in installments if (a) the total amount of the security deposit and nonrefundable move-in fees does not exceed 25 percent of the first full month's rent for the tenant's dwelling unit; and (b) payment of last month's rent is not required at the inception of the tenancy.

5. A tenant's failure to pay a security deposit and non-refundable move-in fee according to an agreed payment schedule is a breach of the rental agreement and subjects the tenant to a 10-day notice pursuant to RCW 59.12.030(4).

D. Return or retention of security deposits. The return or retention of a security deposit, or portion thereof, must comply with the requirements of RCW 59.18.280. The Director may establish by rule procedures for enforcement of the requirements of RCW 59.18.280.

E. No deposit may be collected by a landlord unless the rental agreement is in writing and a written

checklist or statement specifically describing the condition and cleanliness of or existing damages to the premises and furnishings, including, but not limited to, walls, floors, countertops, carpets, drapes, furniture, and appliances, is provided by the landlord to the tenant at the commencement of the tenancy. The checklist or statement shall be signed and dated by the landlord and the tenant, and the tenant shall be provided with a copy of the signed checklist or statement.

F. A landlord must place any required security deposit in a trust account and provide a written receipt and notice of the name, address, and location of the depository and any subsequent change thereof to the tenant, in compliance with the requirements of RCW 59.18.270.

G. Nothing in this Chapter 7.24 prohibits a landlord from bringing an action against a tenant to recover sums exceeding the amount of the tenant's security deposit for damage to the dwelling unit for which the tenant is responsible. The landlord may seek attorney's fees for such an action as authorized by chapter 59.18 RCW.

H. This Section 7.24.035 does not apply to a tenant who rents a housing unit in a single-family residence if the residence is the principal residence of the owner of the residence.

7.24.036 Installment payment option for last month's rent

A tenant may elect to pay last month's rent in installments as follows:

A. For any rental agreement term that establishes a tenancy for six months or longer, the tenant may elect to pay the last month's rent in six consecutive, equal monthly installments that begin at the inception of the tenancy or, the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement.

B. For any rental agreement term that establishes a tenancy between 60 days and six months, the tenant may elect to pay the last month's rent in no more than four equal amounts that begin at the inception of the tenancy and are paid in installments of equal duration or, the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described

in the rental agreement.

C. Landlords may not impose any fee, charge any interest, or otherwise impose a cost on a tenant because a tenant elects to pay the last month's rent in installments.

D. This Section 7.24.036 does not apply to a tenant who rents a housing unit in a single-family residence if the residence is the principal residence of the owner of the residence.

7.24.038 Pet Damage Deposits

A. Except as provided in subsection 7.24.038.B, the landlord may require payment of a pet damage deposit provided that the total amount of the pet damage deposit may not exceed 25 percent of the first full month's rent, regardless of the time when the pet damage deposit is paid. If rent is not paid or otherwise apportioned on a monthly basis then for the sole purpose of applying this limit the total rent shall be pro-rated on an equal, monthly basis and the total charge to a tenant for the pet damage deposit may not exceed 25 percent of the pro-rated, monthly rental amount.

B. The landlord may not require a pet damage deposit if the pet serves as an assistance animal for the tenant. This prohibition does not prohibit a landlord from bringing an action for damages resulting from damage to the landlord's property caused by the tenant's assistance animal.

C. If the pet's occupancy begins at the beginning of tenancy, the amount of the pet damage deposit shall be specified in a rental agreement. If the pet's occupancy begins after the beginning of the tenancy, the amount of the pet damage deposit shall be specified in an addendum to the rental agreement. The tenant may elect to pay the pet damage deposit in three consecutive, equal monthly installments that begin when the pet first occupies the rental unit or, the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement.

D. The landlord cannot keep any portion of the pet damage deposit for damage that was not caused by pets for which the tenant is responsible.

E. Other than the pet damage deposit authorized by subsection 7.24.038.A, the landlord may not

charge the tenant any fee for keeping a pet.

Section 4. Section 7.24.040 of the Seattle Municipal Code, enacted by Ordinance 116843, is amended as follows:

7.24.040 Provisions in violation of restrictions null and void ((:))

Any provisions in ~~((violation of))~~ a rental agreement that violate Section 7.24.030 of this chapter ~~((in a rental agreement))~~ are null and void and of no lawful force and effect.

Section 5. Section 7.24.050 of the Seattle Municipal Code, last amended by Ordinance 119171, is amended as follows:

7.24.050 Defense in commencing action-Fees and costs awarded ((:))

In any action commenced for unlawful detainer or to enforce a rental agreement, to impose penalties, or to forfeit a deposit contrary to rental agreement provisions required by ~~((Section 7.24.030 A of this chapter))~~ subsections 7.24.030.A, 7.24.030.C, or 7.24.030.D or pursuant to rental agreement provisions prohibited by ~~((Section 7.24.030 B of this chapter))~~ subsections 7.24.030.B and 7.24.035, it ~~((shall be))~~ is a defense to such action that such provisions are contrary to the requirements for rental agreements imposed by this chapter, and a tenant who prevails on such defense shall be awarded reasonable attorney fees and costs.

Section 6. Section 7.24.060 of the Seattle Municipal Code, last amended by Ordinance 119171, is amended as follows:

7.24.060 ~~((Landlord liability to tenant.))~~ Private right of action

A. Landlord liability to tenant

1. If a landlord attempts to enforce provisions in a rental agreement that are contrary to ~~((those required to be included in a rental agreement by Section 7.24.030 A or includes provisions prohibited by Section 7.24.030 B in a rental agreement entered into after the effective date of this ordinance))~~ the requirements of Sections 7.24.030, 7.24.035, 7.24.036, or 7.24.038, the landlord shall be liable to the tenant for:
1) any actual damages incurred by the tenant as a result of the landlord's attempted enforcement; ~~((plus))~~ 2)

double the amount of any penalties imposed by the City; ~~((or))~~ 3) double the amount of any security deposit (~~forfeited,~~) unlawfully charged or withheld by the landlord; ~~((as well as))~~ and 4) reasonable attorney fees and costs. ~~((Prior to seeking damages and penalties for failure to return a security deposit, the tenant must have requested return of the security deposit from the landlord.))~~

~~((B-))~~ 2. A landlord who includes provisions prohibited by ~~((Section 7.24.030 B))~~ subsection 7.24.030.B, Section 7.24.035, Section 7.24.036, or Section 7.24.038 in a new rental agreement, or in a renewal of an existing agreement, shall be liable to the tenant for ~~((One Thousand Dollars (\$1,000)))~~ up to \$3,000 plus reasonable attorney fees and costs.

B. Remedies for tenants if landlord fails to comply

1. If a landlord fails to comply with the requirements of subsections 7.24.080.A or 7.24.080.B and such failure was not caused by the tenant, the tenant may terminate the rental agreement by written notice pursuant to law.

2. In addition to the remedy provided by subsection 7.24.060.B.1, if a landlord fails to comply with the requirements of Section 7.24.080, the tenant may recover in a civil action from the landlord actual damages, attorney fees, and a penalty of up to \$500. If a court determines that the landlord deliberately failed to comply with the requirements of Section 7.24.080, the penalty may be up to \$1,000.

Section 7. Section 7.24.070 of the Seattle Municipal Code, enacted by Ordinance 116843, is amended as follows:

7.24.070 Summaries of landlord and tenant rights ~~((:))~~

The Department shall, as soon as practicable after passage of the ordinance ~~((codified in this chapter))~~ introduced as Council Bill 118817, and as the Department shall deem necessary thereafter, prepare a summary of this chapter, and of the Housing and Building Maintenance Code, the Tenant Relocation Assistance Ordinance, ~~((and of))~~ the Condominium Conversion Ordinance, ~~((and))~~ the Cooperative Conversion Ordinance, the Mobile Homes and Mobile Home Parks Ordinance, the Third Party Billing Ordinance, the Rental

Registration and Inspection Ordinance, and the Washington State Residential Landlord Tenant Act, describing the respective rights, obligations, and remedies of landlords and tenants thereunder, and shall make such summaries available at cost for public inspection and copying. The summaries prepared by the Department shall serve as informational documents only, and nothing therein shall be construed as binding on or affecting any judicial determination of the rights and responsibilities of landlords and tenants, nor shall the Department be liable for any misstatement or misinterpretation of the applicable laws.

Section 8. Section 7.24.080 of the Seattle Municipal Code, enacted by Ordinance 116843, is amended as follows:

7.24.080 Distribution of summaries by landlord required ((-))

A. A copy of ~~((any recent))~~ summaries prepared by the Director pursuant to Section 7.24.070 that pertain to the type of tenancy or activity described in a summary ~~((, along with any recent summary of the Residential Landlord-Tenant Act prepared by the Office of the Attorney General of the State of Washington,))~~ shall be ~~((attached to each written rental agreement and))~~ provided to any tenant or prospective tenant by or on behalf of a landlord when such rental agreement is offered, whether or not such agreement is for a new or renewal rental agreement. For a renewal of a rental agreement, the landlord may provide the copy of the summaries to the tenant electronically. A landlord must distribute the summaries annually to tenants having month-to-month tenancies.

B. Where there is an oral agreement, the landlord shall give the tenant copies of the summaries described in Section 7.24.070 ~~((and subsection A of this section))~~ either before entering into the oral agreement or as soon as reasonably possible after entering into the oral agreement.

C. For existing tenants, landlords shall, within ~~((thirty (30)))~~ 30 days after available, or within a reasonable time thereafter, distribute current copies of the summaries described in Section 7.24.070 ~~((and subsection A of this section))~~ to existing tenants.

Section 9. Section 7.24.090 of the Seattle Municipal Code, enacted by Ordinance 116843, is repealed:

~~((7.24.090 Remedies for tenants if landlord fails to comply.~~

A. ~~If a landlord fails to comply with the requirements of subsection A or B of Section 7.24.080 and such failure was not caused by the tenant, the tenant may terminate the rental agreement by written notice pursuant to law.~~

B. ~~In addition to the remedy provided by subsection A of this section, if a landlord fails to comply with the requirements of subsection A, B or C of Section 7.24.080, the tenant may recover in a civil action from the landlord actual damages, attorney fees and a penalty of One Hundred Dollars (\$100.00). If a court determines that the landlord deliberately failed to comply with the requirements of subsection A, B or C of Section 7.24.080, the penalty shall be Two Hundred Dollars (\$200.00).)~~

Section 10. New Sections 7.24.110, 7.24.120, 7.24.130, 7.24.140, 7.24.150 and 7.24.160 are added to the Seattle Municipal Code as follows:

7.24.110 Retaliation prohibited

A. It is a violation of this Chapter 7.24 for any person to retaliate against a tenant or prospective tenant because the tenant or prospective tenant exercised or attempted to exercise rights conferred by this Chapter 7.24. Retaliation means any of the following actions:

1. Refusing to provide, accept, or approve a rental application or a rental agreement.
2. Applying more onerous terms, conditions, or privileges, including increased rent, to a tenant or prospective tenant who exercises his or her rights under this Chapter 7.24 than to a tenant or prospective tenant who does not assert those rights.
3. Misrepresenting any material fact when providing a rental reference about a tenant.
4. Threatening to allege to a government agency that a tenant or prospective tenant, or a family member of a tenant or prospective tenant, is not lawfully in the United States.

B. If a person takes any of the actions identified in subsection 7.24.110.A within 90 days of the date a tenant or prospective tenant exercises rights conferred by this Chapter 7.24, it is presumed that the action was

taken in retaliation for the exercise of those rights. The person taking the actions may rebut the presumption by producing clear and convincing evidence that the actions were not retaliatory.

7.24.120 Administration and enforcement

A. The Director shall administer and enforce the provisions of this Chapter 7.24 and is authorized to adopt reasonable rules and regulations consistent with this Chapter 7.24 to carry out the Director's duties.

B. The first and second violations of this Chapter 7.24 shall be enforced under the citation provisions set forth in Section 7.24.130. Subsequent violations may be enforced, at the Director's discretion, under the notice of violation provisions set forth in Section 7.24.140 or criminal provisions set forth in Section 7.24.150.

7.24.130 Citation

A. Citation. If after investigation the Director determines that the standards or requirements of this Chapter 7.24 have been violated, the Director may issue a citation to the person responsible for the violation.

The citation shall include the following information:

1. The name and address of the responsible person to whom the citation is issued;
2. A reasonable description of the location of the property on which the violation occurred;
3. A separate statement of each standard or requirement violated;
4. The date of the violation;
5. A statement that the person cited must respond to the citation within 15 days after service;
6. A space for entry of the applicable penalty;
7. A statement that a response must be sent to the Hearing Examiner and received not later than 5 p.m. on the day the response is due;
8. The name, address, and phone number of the Hearing Examiner where the citation is to be filed;

9. A statement that the citation represents a determination that a violation has been committed by the responsible person named in the citation and that the determination shall be final unless contested as provided in subsection 7.24.130.C; and

10. A certified statement of the inspector issuing the citation, authorized by RCW 9A.72.085, setting forth facts supporting issuance of the citation.

B. Service. The citation may be served by personal service in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service shall be complete at the time of personal service, or if mailed, three days after the date of mailing. If a citation sent by first class mail is returned as undeliverable, service may be made by posting the citation at a conspicuous place on the property.

C. Response to citations

1. A citation must be responded to in one of the following ways:

a. Payment of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or

b. A written request for a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing an address to which notice of such hearing may be sent; or

c. A written request for a contested hearing specifying the reason(s) why the cited violation did not occur or why the person cited is not responsible for the violation, and providing an address to which notice of such hearing may be sent.

2. A response to a citation must be received by the Office of the Hearing Examiner no later than 15 days after the date the citation is served. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.

D. Failure to respond. If the Office of the Hearing Examiner does not receive a response within 15

days of service of the citation, the Hearing Examiner shall enter an order finding that the person cited committed the violation stated in the citation, and assessing the penalty specified in the citation.

E. Hearings

1. Mitigation hearings

a. Date and notice. If a mitigation hearing is requested, the mitigation hearing shall be held within 30 days after written response to the citation requesting such hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing shall be sent to the address specified in the request for hearing not less than ten days prior to the date of the hearing.

b. Procedure at hearing. The Hearing Examiner shall hold an informal hearing that shall not be governed by the Rules of Evidence. The person cited may present witnesses, but witnesses may not be compelled to attend. A representative from the Seattle Department of Construction and Inspections may also be present and may present additional information, but attendance by a representative from the Seattle Department of Construction and Inspections is not required.

c. Disposition. The Hearing Examiner shall determine whether the cited person's explanation justifies reduction of the monetary penalty; however, the monetary penalty may not be reduced unless the Seattle Department of Construction and Inspections affirms or certifies that the violation has been corrected prior to the mitigation hearing. Factors that may be considered in whether to reduce the penalty include whether the violation was caused by the act, neglect, or abuse of another; or whether correction of the violation was commenced promptly prior to citation but that full compliance was prevented by a condition or circumstance beyond the control of the person cited.

d. Entry of order. After hearing the explanation of the person cited and any other information presented at the hearing, the Hearing Examiner shall enter an order finding that the person cited committed the violation and assessing a monetary penalty in an amount determined pursuant to subsection 7.24.130.F. The Hearing Examiner's decision is the final decision of the City on the matter.

2. Contested hearing

a. Date and notice. If a person requests a contested hearing, the hearing shall be held within 60 days after the written response to the citation requesting such hearing is received.

b. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases, except as modified by this subsection 7.24.130.E.2. The issues heard at the hearing shall be limited to those that are raised in writing in the response to the citation and that are within the jurisdiction of the Hearing Examiner. The Hearing Examiner may issue subpoenas for the attendance of witnesses and the production of documents.

c. Sufficiency. No citation shall be deemed insufficient for failure to contain a detailed statement of the facts constituting the specific violation which the person cited is alleged to have committed or by reason of defects or imperfections, provided such lack of detail or defects or imperfections do not prejudice substantial rights of the person cited.

d. Amendment of citation. A citation may be amended prior to the conclusion of the hearing to conform to the evidence presented if substantial rights of the person cited are not thereby prejudiced.

e. Evidence at hearing. The certified statement or declaration authorized by RCW 9A.72.085 shall be prima facie evidence that a violation occurred and that the person cited is responsible. The certified statement or declaration authorized under RCW 9A.72.085 and any other evidence accompanying the report shall be admissible without further evidentiary foundation. The person cited may rebut the Department of Construction and Inspections' evidence and establish that the cited violation(s) did not occur or that the person contesting the citation is not responsible for the violation.

f. Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall enter an order finding that the person cited committed the violation. If the violation remains uncorrected, the Hearing Examiner shall impose the applicable penalty. The Hearing Examiner may reduce the monetary penalty

in accordance with the mitigation provisions in subsection 7.24.130.E.1 if the violation has been corrected. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.

g. **Appeal.** The Hearing Examiner's decision is final and conclusive unless, within ten calendar days of the date of the Hearing Examiner decision, an application or petition for a writ of review is filed in King County Superior Court. Judicial review shall be confined to the record of the administrative hearing. The Superior Court may reverse the Hearing Examiner decision only if the decision is arbitrary and capricious, contrary to law, in excess of the authority or jurisdiction of the Hearing Examiner, made upon unlawful procedure, or in violation of constitutional provisions.

3. **Failure to appear for hearing.** Failure to appear for a requested hearing will result in an order being entered finding that the person cited committed the violation stated in the citation and assessing the penalty specified in the citation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

F. **Citation penalties**

1. The following penalties shall be assessed for violations of any provision of this Chapter 7.24:

- a. Five hundred dollars for the first violation; and
- b. One thousand dollars for each subsequent violation within a 5-year period.

2. **Violation warning.** The Director may, in an exercise of discretion, issue a warning to the person responsible for the violation if that person has not been previously warned or cited for violating this Chapter 7.24.

3. **Collection of penalties.** If the person cited fails to pay a penalty imposed pursuant to this Section 7.24.130, the penalty may be referred to a collection agency. The cost to the City for the collection services will be assessed as costs, at the rate agreed to between the City and the collection agency, and added to

the penalty. Alternatively, the City may pursue collection in any other manner allowed by law.

7.24.140 Notice of violation

A. Investigation and notice of violation issuance

1. If after investigation the Director determines that the standards or requirements of this Chapter 7.24 have been violated, and the person responsible for the violation has had two or more citations issued within the past three years for violating this Chapter 7.24, the Director may issue a notice of violation to the person responsible for the violation. The notice of violation shall state separately each standard or requirement violated, shall state what corrective action, if any, is necessary to comply with the standards or requirements, and shall set a reasonable time for compliance.

2. The notice shall be served upon the person responsible for the violation by personal service, or by first class mail to the person's last known address. If the address of the responsible person is unknown and cannot be found after a reasonable search, the notice may be served by posting a copy of the notice at a conspicuous place on the property. If a notice of violation is directed to a person responsible for the violation who is not the owner, a copy of the notice shall be sent to the owner of the property.

3. A copy of the notice of violation may be filed with the King County Department of Records and Elections when the responsible person fails to correct the violation or the Director requests the City Attorney take appropriate enforcement action.

B. Review of the notice of violation by the Director

1. Any person significantly affected by or interested in a notice of violation issued by the Director pursuant to subsection 7.24.140.A may obtain a review of the notice by requesting such review within ten days after service of the notice. When the last day of the period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day. The request shall be in writing, and upon receipt of the request, the Director shall notify any persons served the notice of violation and the complainant, if any, of the request for review and the deadline for submitting additional information for the

review. Additional information shall be submitted to the Director no later than 15 days after the notice of a request for a review is mailed, unless otherwise agreed by all persons served with the notice of violation.

Before the deadline for submission of additional information, any person significantly affected by or interested in the notice of violation (including any persons served the notice of violation and the complainant) may submit any additional information in the form of written material or oral comments to the Director for consideration as part of the review.

2. The review will be made by a representative of the Director who is familiar with the case and the applicable ordinances. The Director's representative will review all additional information received by the deadline for submission of additional information. The reviewer may also request clarification of information received and a site visit. After review of the additional information, the Director may:

- a. sustain the notice of violation;
- b. withdraw the notice of violation;
- c. continue the review to a date certain for receipt of additional information; or
- d. modify the notice of violation, which may include an extension of the compliance

date.

3. Where review by the Director has been conducted pursuant to this subsection 7.24.140.B <https://www.municode.com/library/wa/seattle/codes/municipal_code?nodeId=TIT23LAUSCO_SUBTITLE_IVAD_CH23.90ENLAUSCO_23.90.014REDI>, the Director shall issue an order of the Director containing the decision within 15 days of the date that the review is completed and shall cause the same to be mailed by regular first class mail to the person or persons named on the notice of violation and, if possible, mailed to the complainant. Unless a request for review before the Director is made pursuant to this subsection 7.24.140.B <https://www.municode.com/library/wa/seattle/codes/municipal_code?nodeId=TIT23LAUSCO_SUBTITLE_IVAD_CH23.90ENLAUSCO_23.90.014REDI>, the notice of violation shall become the order of the Director.

C. Extension of compliance date for the notice of violation. The Director may grant an extension of time for compliance with any notice or order, whether pending or final, upon the Director's finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension. An extension of time may be revoked by the Director if it is shown that the conditions at the time the

extension was granted have changed, the Director determines that a party is not performing corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of revocation shall then be considered the compliance date.

D. Civil enforcement proceedings and penalties for a notice of violation

1. In addition to any other remedy authorized by law or equity, any person violating or failing to comply with any of the provisions of this Chapter 7.24 shall be subject to a cumulative penalty of up to \$150 per day for each violation from the date the violation begins for the first ten days of noncompliance; and up to \$500 per day for each violation for each day beyond ten days of noncompliance until compliance is achieved. In cases where the Director has issued a notice of violation, the violation will be deemed to begin for purposes of determining the number of days of violation on the date compliance is required by the notice of violation. The City shall also be entitled to recovery of its enforcement costs, including but not limited to staff time, administrative expenses and fees, and attorneys' fees.

2. The penalty imposed by subsection 7.24.140.D.1 shall be collected by civil action brought in Seattle Municipal Court or as otherwise required by law. The Director shall request in writing that the City Attorney take enforcement action and the City Attorney shall, with the assistance of the Director, take appropriate action to enforce this Chapter 7.24. In any civil action for a penalty, the City has the burden of proving by a preponderance of the evidence that a violation exists or existed; the issuance of the notice of violation or of an order following a review by the Director is not itself evidence that a violation exists.

E. Final decisions of the Seattle Municipal Court on enforcement actions authorized by this Section 7.24.140 may be appealed pursuant to the Rules for Appeal of Decisions of Courts of Limited Jurisdiction.

7.24.150 Alternative criminal penalty

Any person who violates or fails to comply with any of the provisions in this Chapter 7.24 and who has had at least two or more citations and one notice of violation issued against them for violating this Chapter 7.24 within the past three years from the date the criminal charge is filed shall upon conviction be guilty of a

misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 need be proved. The Director may request the City Attorney prosecute such violations criminally as an alternative to the citation and notice of violation procedures outlined in this chapter.

7.24.160 Additional relief

The Director may seek legal or equitable relief at any time to enjoin any acts or practices that violate the provisions of this Chapter 7.24.

Section 11. The City Council requests that the Office of City Auditor, in consultation with the Seattle Department of Construction and Inspections and the Office of Housing, evaluate trends in the rental market to inform future decisions about maintaining or amending the provisions included in the ordinance introduced as Council Bill 118817. This should include an assessment at initial implementation and after one year of implementation of aspects of the rental market that may be impacted by this legislation, including but not limited to: analysis of existing data sources to measure changes in rents charged and evictions; surveying tenants and landlords about recent rental transactions including the amount charged for security deposits and non-refundable move-in fees, installment plan terms and conditions, and the return or retention of security deposits. The City Auditor, at their discretion, may retain an independent, outside party to conduct the evaluation. The evaluation shall be submitted to the City Council by June 2018.

Section 12. The Seattle Department of Construction and Inspections (SDCI) shall, in coordination with the Office for Immigrant and Refugee Affairs, Department of Neighborhoods, and the Office of Civil Rights, conduct outreach and prepare educational materials to better inform limited English proficient communities and immigrant and refugee communities of the protections and responsibilities of tenants and landlords under these regulations. SDCI shall report to the City Council on the outcomes of this outreach and educational work within six months of the effective date of the ordinance introduced as Council Bill 118817.

Section 13. The provisions of this ordinance are declared to be separate and severable. The invalidity of

any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 14. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2016,

and signed by me in open session in authentication of its passage this ____ day of

_____, 2016.

President _____ of the City Council

Approved by me this ____ day of _____, 2016.

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2016.

Monica Martinez Simmons, City Clerk

(Seal)