

Your Committee, to which this proposal was referred, has amended the proposal to read as follows and recommends its adoption as amended.

CITY COUNTY COUNCIL

PROPOSAL NO. 41, 2020

CITY OF INDIANAPOLIS-MARION COUNTY, INDIANA

INTRODUCED: 1/27/2020

REFERRED TO: Public Safety and Criminal Justice Committee

SPONSOR: Councillor Osili

DIGEST: requires landlords to give tenants notice of their rights and responsibilities, to connect tenants to legal assistance where necessary to vindicate their rights and avoid eviction, to protect tenants from retaliation for exercising their rights, and to prohibit discrimination against applicants for housing based on expunged or sealed criminal convictions

SOURCE:

Initiated by: Office of Public Health and Safety

Drafted by: Office of Public Health and Safety

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: _____ Date: January 23, 2020

CITY-COUNTY GENERAL ORDINANCE NO. , 2020

PROPOSAL FOR A GENERAL ORDINANCE to add Chapter 582, Protection of Tenants' Rights, to the Revised Code.

WHEREAS, Indiana law and the Marion County health and housing code guarantee tenants in leased rental units certain basic standards of habitability, and grant other protections relating to privacy and non-discrimination; and

WHEREAS, despite these protections, many tenants in Marion County lack information on their rights or do not feel empowered to exercise their rights because they lack options or because of the threat of eviction or retaliation; and

WHEREAS, substandard housing conditions pose serious threats to the health and safety of tenants and can cause the deterioration of community fabric and other harmful consequences, while eviction and housing instability are associated reduced eligibility for public housing, depressed credit scores, harm to job prospects, and lasting effects on mental health, physical well-being, and family unity; and

WHEREAS, promoting access to accurate information about tenant rights and responsibilities, connecting tenants to resources to help exercise their rights, and prohibiting certain forms of landlord retaliation and discrimination can help address these issues faced by tenants; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Revised Code of the Consolidated City and County is hereby amended to add Chapter 582, "Protection of Tenants' Rights," reading as follows:

Chapter 582: Protection of Tenants' Rights

Sec. 582-101. Findings and Purpose

The City-County Council finds that many tenants in Indianapolis live in rental housing units that fail to comply with their right to safe and habitable housing under state law and the Marion County health and housing code. Tenants are often unaware of their rights and lack the resources and legal assistance necessary to exercise those rights. The purpose of this ordinance is to require landlords to give tenants notice of their rights and responsibilities, connect tenants to legal assistance where necessary to vindicate their rights and avoid eviction, protect tenants from retaliation for exercising their rights, and prohibit discrimination against applicants for housing based on expunged or sealed criminal convictions.

Sec. 582-102. Definitions

For purposes of this Chapter:

Landlord has the meaning set forth in Ind. Code § 32-31-3-3. If multiple persons or entities satisfy the definition of landlord as to a rental unit, then the person who is primarily responsible for receiving rent shall be considered the landlord for the purposes of Section 103 of this Chapter.

Rental unit has the meaning set forth in Ind. Code § 32-31-3-8, except that an owner-occupied structure that:

- (1) Has no portion of the area thereof promised for the use of a residential tenant, or
 - (2) Has a single sleeping unit being rented to a tenant,
- shall not be considered a "Rental Unit."

In addition, a property that is booked for rental to the public or rented to the public only for a rental period of less than thirty (30) consecutive days at any one time through a "short term rental platform," as that term is defined by Indiana Code § 36-1-24-7, shall not be considered a "rental unit.";

~~(1) Booked for rental to the public or rented to the public only for a rental period of less than thirty (30) consecutive days at any one time; and~~

~~(2) Rented to the public not more than a total of one hundred eighty (180) days during a calendar year,~~

~~shall not be considered a "rental unit."~~

Tenant has the meaning set forth in Ind. Code § 32-31-3-10, except that references to a singular tenant in this chapter refer collectively to all individuals within a household who satisfy the definition of Ind. Code § 32-31-3-10. All requirements pertaining to a "tenant" may be satisfied by fulfilling the requirement with respect to at least one adult individual in a household of multiple tenants.

Sec. 582-103. Notice of Tenant's Rights and Responsibilities

- a. After July 1, 2020, the landlord of a rental unit shall provide to each tenant, no later than 10 days after the commencement of tenancy, a Notice of Tenant Rights and Responsibilities (for purposes of this chapter, the "Notice"). The Notice must conform substantially to the form found in the Appendix, must contain at least the information set forth in the form found in the Appendix, and must provide the toll-free telephone number for the Tenant Information Hotline established pursuant to Section 104 of this Chapter and accurate information concerning its operating hours. The tenant must review, sign, and date the Notice, return the original signed copy to the landlord, and be provided a copy of the signed and dated Notice for the tenant's records.
- b. After July 1, 2020, a new Notice must be provided to a tenant within 10 days before or after the renewal date of a tenant's lease. The tenant must review, sign, and date the Notice, return the original signed copy to the landlord, and be provided a copy of the signed and dated Notice for the tenant's records.

- c. The landlord of a residential unit must maintain on file the tenant's signed and dated copy of the most recent Notice provided to each tenant until at least 60 days after the end of the tenant's tenancy or until the Notice is superseded by a lease renewal.
- d. The Department of Business and Neighborhood Services may require any landlord, upon registering with the City's Landlord Registration Program or making an annual registration renewal pursuant to Revised Code § 851-104, to furnish to the Department signed copies of a Notice for each current tenant. The Department of Business and Neighborhood services may also demand of any landlord, at any time, proof that the landlord has complied with the requirements of subsections (a) through (c) as to each tenant.
- e. A landlord who fails to comply with subsection (d) is subject to a penalty of \$500 for each rental unit as to which the landlord is unable to furnish a Notice signed by the rental unit's current tenant.
- f. The Office of Public Health and Safety shall publish, on or before May 1, 2020, a Form Notice on its website that may be downloaded and printed for distribution by landlords. The Office of Public Health and Safety shall also make available paper copies of the Form Notice upon request from any landlord, free of charge. The Form Notice shall conform to the contents found in the Appendix, and shall include the toll-free telephone number for the Tenant Information Hotline established pursuant to Section 104 of this Chapter and accurate information concerning its operating hours. Use of the Form Notice itself is not mandatory but will satisfy the requirements of subsections (a) and (b).
- g. After May 1, 2020, the Office of Public Health and Safety may publish a revised or updated version of the Form Notice. Beginning 90 days after such publication, all new Notices provided to tenants pursuant to subsections (a) and (b) must conform substantially to the additional or revised contents of such a revised Form Notice.
- h. Notwithstanding subsection (a), a notice mandated by the Indianapolis Housing Agency (IHA) for landlord distribution to tenants will satisfy the requirements of this Section, provided that the IHA-mandated notice's contents are substantially similar to the published Form Notice and the IHA-mandated notice provides the toll-free telephone number for the Tenant Information Hotline established pursuant to Section 104 of this Chapter and accurate information concerning its operating hours.

Sec. 582-104. Establishment of Tenant Information Hotline

The City, acting through the Office of Public Health and Safety, is directed to establish, or contract with a third party to establish, a Tenant Information Hotline, and to publicly post its phone number and hours of availability. The Tenant Information Hotline will not provide legal advice to any caller, but Hotline staff may refer callers to any legal assistance program that the City, acting through the Office of Public Health and Safety, may establish in partnership with community legal organizations. The telephone number for the Tenant Information Hotline shall be included in the Notice provided to tenants pursuant to Section 103 of this Chapter. The City shall fund the Tenant Information Hotline for a pilot period of at least one year and shall collect all data necessary to evaluate the effectiveness of the program.

Sec. 582-105. Retaliation Prohibited

- a. It is prohibited for any landlord to take any adverse action against a tenant in retaliation for:
 - (1) The tenant's use of the Tenant Information Hotline;
 - (2) The tenant's seeking or obtaining legal or non-legal assistance in connection with the tenant's legal rights under Indiana law, including but not limited to Indiana Code Chapters 32-31-7 and 32-31-8;
 - (3) The tenant's communication with the Department of Business and Neighborhood Services to report a landlord's violation of the requirements of Section 103 of this Chapter;

- (4) The tenant's request for inspection or other communication, or an attorney's request for inspection or other communication on the tenant's behalf, with the Marion County Public Health Department concerning the conditions of the tenant's rental unit; or
 - (5) The tenant's communication with the Department of Business and Neighborhood Services in connection with the Indianapolis Landlord Registry established under Chapter 851 of the Revised Code.
- b. For purposes of this section, a landlord engages in an "adverse action" when the landlord brings or threatens to bring an action for possession of the tenant's residential rental unit, brings or threatens to bring an emergency possessory order action, raises or threatens to raise the tenant's rent, adversely alters the living conditions of the tenant's rental unit, or otherwise treats the tenant in a materially different manner from other tenants who are similarly situated.
 - c. For purposes of this section, a landlord's adverse action against a tenant shall be considered to be retaliation for any of the protected tenant activities listed in subsection (a) if there is a causal link between the protected tenant activity and the adverse action, regardless of whether the protected tenant activity is the sole cause of the adverse action.
 - d. There shall be a rebuttable presumption that an adverse action is retaliatory if
 - (1) it occurs within 60 days **of a after tenant's engaging** in any of the protected activities listed in subsection (a); or
 - (2) no other material change in the landlord-tenant relationship has occurred in the time between the tenant's engaging in any of the protected activities listed in subsection (a) and the landlord's adverse action.
 - e. A landlord who retaliates against a tenant in violation of this section shall be assessed a penalty of \$2,500 for a first violation as to each tenant, and \$7,500 for any subsequent violation as to the same tenant.

Sec. 582-106. Discrimination against tenants or applicants for housing with expunged or sealed convictions prohibited.

- a. It shall be a discriminatory practice under the Indianapolis Equal Opportunity Ordinance, Revised Code § 581-103, for any owner, landlord, real estate broker, or real estate salesperson or agent, acting in such a capacity in the ordinary course of his or her business or occupation, to deny any application for housing in a rental unit, to bring or threaten to bring an action for possession of an existing tenant's residential rental unit, or otherwise to deny equal treatment to any existing tenant or applicant for housing, on the basis of any criminal conviction that has been expunged or sealed pursuant to Indiana Code Chapter 35-38-9.
- b. The Office of Equal Opportunity is empowered to receive, investigate, and adjudicate complaints of discriminatory practices prohibited by this section in accordance with the procedures set forth in Chapter 581, Article IV of the Revised Code.
- c. Nothing in this section shall be construed to conflict with the protections for tenants who are victims of family violence, sexual violence, and stalking set forth in Indiana Code Chapter 32-31-9.

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid

provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Indiana Code § 36-3-4-14.

The foregoing was passed by the City-County Council this _____ day of _____, 2020, at _____ p.m.

ATTEST:

SaRita Hughes
Clerk, City-County Council

Vop Osili
President, City-County Council

Presented by me to the Mayor this _____ day of _____, 2020.

SaRita Hughes
Clerk, City-County Council

Approved and signed by me this _____ day of _____, 2020.

Joseph H. Hogsett, Mayor

Appendix -- Notice of Tenant Rights and Responsibilities

If you lease a rental unit, you have the following rights as a tenant under the law:

- You have the right to a safe and livable home. This means a rental unit that:
 - Is secure, with doors and windows that can be locked
 - Has working plumbing, hot water, heating, and at least one smoke detector
 - Is free from unhealthy conditions such as infestations or lead paint
 - Has functioning electricity without unsafe wiring or outlets.
- Your landlord must keep common areas and elevators in clean, usable condition.
- You have the right to basic privacy in your home. This generally means:
 - Your landlord cannot lock you out without a court order
 - Your landlord cannot enter your unit without notice, except in emergencies.
- You have the right to be free from discrimination on the basis of race, sex, sexual orientation, gender identity, religion, national origin, age, color, disability, ancestry, familial status, veteran status, or an expunged criminal conviction.
- Your landlord must return your security deposit within 45 days of you moving out, if you leave the unit in good order **and** give a forwarding address. Your landlord must make an itemized list of any deductions from the full amount. You may dispute those deductions.
- You may have additional rights if you or someone in your household has been the victim of domestic violence, sexual violence, or stalking, and a civil protection order or criminal no-contact order has been entered.

You also have certain responsibilities as a tenant:

- Indiana law states that tenants must pay rent. **You should not stop paying rent to force your landlord to make repairs or provide upkeep on your rental unit without consulting with a lawyer first.**
- You must keep your rental unit reasonably clean, and you may not deface, damage, or destroy your rental unit or a fixture in your rental unit.
- You must use the systems, appliances, and features of your rental unit and common areas of your building in a reasonable manner.
- You must comply with your rental agreement and other landlord rules and regulations.
- You must ensure that the smoke detector in your rental unit remains in working order.
- When you move away from your rental unit, you have a duty to leave it in good condition, apart from normal wear and tear.

To learn more about your rights and responsibilities or to seek legal help, call the Tenant Information Hotline at: 1-800-____-____. The Hotline operates from the hours of _____ to _____.

These rights and responsibilities are yours by law. Your landlord cannot retaliate against you for asking about or exercising your rights, including contacting the Health Department or calling the Tenant Information Hotline.

Your landlord is required to ensure that you review and sign this Notice, to provide you a renewed Notice if and when you renew your lease, and to keep your signed Notice on file for as long as you remain a tenant.

Acknowledgment

By signing below, I acknowledge that my landlord has provided me with the attached Notice in compliance with a City of Indianapolis ordinance, that I have reviewed the Notice, and that my landlord has given me a copy of the Notice to keep for my records.

I understand that this Notice is intended as a brief overview of my rights and responsibilities as a tenant and that in order to obtain more detailed advice concerning my legal rights and responsibilities, I should consult with an attorney or other expert on housing issues.

Please do NOT sign below unless your landlord has provided you a copy of the Notice to keep for your records.

Tenant Name: _____

Tenant Signature: _____

Date: _____