



City of Independence

111 EAST MAPLE • P.O. BOX 1019 • INDEPENDENCE, MISSOURI 64051-0519 • (816) 325-7000

AN EQUAL OPPORTUNITY EMPLOYER

RECEIPT FOR LANDLORD/TENANT GUIDE

It shall be unlawful for any landlord to lease or otherwise permit or allow the occupation of any dwelling unit without providing the lessee or tenant a copy of the Independence Landlord/Tenant Guide, and obtaining the lessee or tenant's signature as proof of receipt. Any landlord who fails to show such proof of receipt to the Code Official, when requested to do so when the landlord's property is the subject of a code enforcement action by the Code Official, shall be subject to a One Hundred Dollar (\$100.00) fine in Municipal Court.

Independence City Code, Chapter 4, Article 11, Section 4.11.001-D (Landlord and Tenant Code)

I hereby acknowledge that I have received a copy of the Independence Landlord/Tenant Guide.

Tenant's Name (Please Print): _____

Rental Property Address _____

Landlord's Name (Please Print) _____

Tenant's Signature: _____

Landlord's Signature: _____

Date _____

Original: Landlord

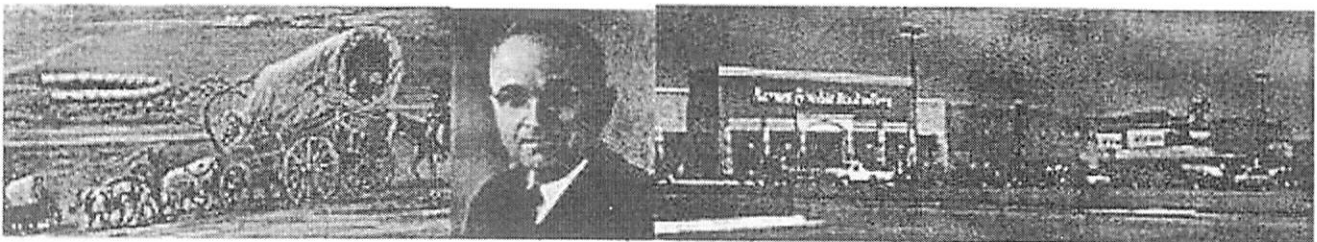
Copy: Tenant

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A COMMUNITY IN EASTERN JACKSON COUNTY

Welcome to
Independence, Missouri

**LANDLORD & TENANT
GUIDE**



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INTRODUCTION

Many of the problems landlords and tenants encounter could have been avoided if they had known their rights and responsibilities. This guide is an attempt to outline that information for both parties. This guide is an update of the previous guide which used some material from the "Landlord-Tenant Guide" published by the City of Kansas City, Missouri, and the "Landlord-Tenant Manual," published by the Kansas City, Missouri, Law Department with the cooperation of Legal Aid of Western Missouri.

Before seeking any of the legal remedies described in this guide, be sure you have made a genuine attempt to work out the problem you face. Good-faith negotiations often can result in a faster, more satisfactory solution than court proceedings and they avoid unnecessary hard feelings and expense.

This Landlord and Tenant Guide is published to provide information of interest to landlords and tenants. **THIS GUIDE IS DISTRIBUTED WITH THE UNDERSTANDING THAT IT IS NOT TO BE CONSTRUED AS LEGAL ADVICE. READERS ARE URGED TO SEEK THE INDEPENDENT PROFESSIONAL JUDGMENT OF AN ATTORNEY BEFORE ACTING ON THIS INFORMATION.**

Additional copies of this guide are available at Independence City Hall, 111 E. Maple, from the City Clerk's Office and the Planning Department. You can call the City Clerk's Office at 325-7010.

APPLICABLE LAWS

There are many federal, state and local laws which apply to housing and family residences. You may want to consult those laws at the public library or at the UMKC Law School library for additional information.

Federal Statutes and Regulations

The Federal Fair Housing Law, as amended by the Housing and Community Development Act of 1974, can be found at 42 U.S. Code, Section 3601 and 42 U.S. Code, Section 5308. Regulations that outline eviction procedures for federally subsidized housing can be found in Title 24 of the Code of Federal Regulations, beginning at Section 247.1. Regulations governing public housing can be found at 24 CFR 960 and those governing Section 8 housing can be found at 24 CFR 882.

The following information regarding Federal laws has been provided by the U.S. Department of Housing & Urban Development, Office of Fair Housing and Equal Opportunity:

Landlords CANNOT refuse to sell, rent, sublease, or otherwise make housing available based on a renter's race, color, religion, sex, disability, familial status or national origin. Landlords cannot charge some individuals higher rent, falsely state that housing is not available or advertise that there is an intention to discriminate.

Fair Housing Laws

The Fair Housing Amendments Act (FHAA) prohibits discrimination in housing because of:

- Race or Color
- National Origin
- Religion
- Sex
- Familial Status (including children under the age of 18 living with parents or legal custodians, pregnant women and people securing custody of children under 18)
- Handicap (a person with - a physical or mental impairment that substantially limits one or more of such person's major life activities; a record of having such an impairment; or being regarded as having such an impairment.)

Are tenants who have a history of drug abuse or who are in treatment programs protected by the FHAA?

Yes. The definition of handicap includes drug addiction and alcoholism. However, the FHAA does not protect anyone who is currently and illegally using drugs.

Are all landlords bound by the FHAA?

All companies and most individuals who own or manage housing – whether public or private – must comply with the FHAA. The only landlords who do not have to comply are owners of a building with no more than four rental units who live in the building themselves.

What kind of discriminatory rental practices does the FHAA prohibit?

The FHAA prohibits landlords from discriminating against anyone in the rental of a dwelling because that person meets the above criteria. This means that landlords may not impose application criteria, qualification criteria, security deposits, rental charges, rental standards, or other requirements different than those required of other tenants.

It would also be unlawful for a landlord to limit or deny someone with a disability access to recreation facilities, parking privileges, cleaning or janitorial services - anything that is available to other tenants. Landlords may not delay or refuse to make repairs because a tenant has a disability. Further, a property manager who discourages someone from renting a dwelling, or assigns a person to a particular section or unit because of a disability, or who indicates that an available dwelling has been rented when it has not, would be in violation of the FHAA.

May a landlord ask an applicant about his or her disability?

NO. A landlord may not ask a prospective resident, resident, subtenant, guest, invitee or any associate of a resident whether he or she has a mental illness, cerebral palsy, mental retardation, cancer, epilepsy, AIDS, or any other disability.

It is likewise unlawful for a landlord to inquire about the nature or severity of a disability. Further, a landlord may not ask a tenant or applicant any questions that would require the tenant to waive his right to confidentiality regarding his medical condition or history. A landlord is NOT entitled to see a prospective resident's medical records.

What may a landlord ask a prospective resident?

Landlords may inquire into applicants' ability to meet tenancy requirements. This means a landlord may ask whether a prospective resident is able to pay the rent, whether he/she is willing to comply with the building's rules and other questions relating directly to tenancy - providing he asks all other applicants the same questions.

In addition, a landlord may also ask the following questions, SO LONG AS THEY ARE ASKED OF ALL APPLICANTS.

First, IF a landlord is providing housing designed for and occupied by people with disabilities or with a particular type of disability, he may ask whether the applicant qualifies for a dwelling that is available only to people with disabilities or with a particular type of disability. Second, a landlord who provides this type of housing may ask if an applicant qualifies for a priority available to people with handicap or with a particular type of handicap.

A landlord may also ask an applicant whether he is currently an illegal abuser or addict of a controlled substance; whether he has been convicted of the illegal manufacture or distribution of a controlled substance; or whether his tenancy poses a "direct threat to the health and safety of others".

When does a person's tenancy "pose a direct threat to the health or safety" of others?

The law requires landlords to make sound and reasonable judgment based on objective evidence (current conduct or a history of overt acts). If the landlord determines, by objective evidence recent enough to be credible (not from rumour, unsubstantiated inference or incidents from many years ago) that a person's tenancy puts others directly at risk of harm, the landlord may reject a prospective resident on grounds of risk to others. In other words, housing providers may refuse to rent to ANY applicant who has a recent history of disruptive, abusive or dangerous behavior.

Does a resident have a right to modify his or her rented apartment or other dwelling?

YES. The FHAA gives residents with disabilities the right to modify premises at their expense if "such modifications may be necessary to afford such person FULL ENJOYMENT of the premises". For example, a resident with limited strength in his hand must be permitted to install lever doorknobs in place of round doorknobs. A person who uses a wheelchair has a right to install swing-away hinges to widen a doorway or to build a ramp to enter the dwelling. Where reasonable, the landlord may permit changes only if the resident agrees to restore the property to its original condition when they move.

Is there ever a time when the landlord would have to make a "reasonable accommodation?"

YES. Sometimes a housing provider excludes people with disabilities without meaning to discriminate. The Fair Housing Act corrects this by requiring that providers make reasonable accommodations in their rules, policies, practices or services to give a person with a disability an equal opportunity to use and enjoy a dwelling unit or common space.

Accommodations are "reasonable" when they are practical and feasible. An example: Suppose a resident washes all her clothes by hand because mental illness makes her too anxious about machines to use the washers and dryers in the laundry room. The FHA requires all services to be available to all tenants and the laundry is one of the building's services. Here, a reasonable accommodation would be a tub and a line-drying area away from the machines.

A rule, policy, practice or service is discriminatory when it interferes with the ability of a resident with a disability to enjoy his or her house or apartment. A landlord may not say, "That is the way we've always done it," but must make reasonable accommodations. For example, a building with a "no pets" policy must allow a visually impaired resident to keep a guide dog or an apartment community that offers residents amply, unassigned parking must honor a request from a mobility-impaired resident for a reserved space near her apartment if necessary to assure that she can access her apartment. However, housing need not be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

Further information about federal fair housing laws can be obtained by contacting:

**US Department of Housing & Urban Development
Office of Fair Housing and Equal Opportunity
400 State Avenue**

**Kansas City, KS 66101-2406
(913) 551-6958**

**<http://www.hud.gov>
1-800-669-9777**

-800-927-9275 TDD Line

Missouri Statutes

Laws governing landlord and tenant relations can be found in Chapters 441 (Landlord and Tenant-general provisions, collection of rent, inadequate housing), 534 (Unlawful Detainer) and 535 (Landlord-Tenant Actions - evictions, security deposits) of the Revised Statutes of Missouri. Missouri's Fair Housing Law can be found in Chapter 213 of the Revised Statutes of Missouri, and Chapter 8 of the Code of State Regulations. Further information about Missouri law can be obtained via the state website at www.dolir.state.mo.us or at www.moga.state.mo.us/STATUTES/STATUTES.HTM or by contacting the Missouri Commission on Human Rights at:

Missouri Commission on Human Rights

4049 Pennsylvania Ave, Ste 150
Kansas City, MO 64111
(816) 889-5100

Other Provisions of Missouri Statutes

Missouri Statutes effective August 28, 1997, offer greater protection for residents renting from unresponsive landlords as well as more options for landlords to get rid of drug dealers and destructive residents. Among the new provisions of the Landlord-Tenant law passed in 1997:

- Authorizes county courts to order the quick removal of tenants involved in criminal activity, even without a conviction.
- Allows landlords to remove abandoned personal items once they have complied with notice requirements.
- Makes a landlord guilty of forcible entry for willfully interrupting utility service, unless it is done for health and safety reasons.
- Allows a tenant, under certain circumstances, to deduct one-half of a month's rent or up to \$300 (whichever is greater) for repair of code violations when a landlord neglects property. This can be done once a year.
- Allows a landlord to double the rent when a tenant lets another person take over the premises without the landlord's permission.
- Limits occupancy to two persons per bedroom except for children born during the lease period.
- Authorization to establish a landlord-tenant court in St. Louis and Jackson County to hear felony-level cases, which can include serious property damage caused by tenants and repeat code violations by landlords. (This court has not been established as of September 1999.)
- The new law requires a landlord give 60 days' notice before terminating leases for mobile home lots.

You can find the statutes on the Internet at:

<http://www.moga.state.mo.us/statutes/statutes.htm>.

Independence City Code

Several Chapters of the Independence City Code contain provisions which apply to rental housing. Chapter 4, Article 11, the Landlord and Tenant Code, prohibits various acts of landlords and tenants. Article 3 of Chapter 4 prohibits discriminatory housing practices. In addition, portions of other chapters of the City Code may also apply to rental housing: Chapter 4, Articles 1, 4, 5, 6, and 7 deal with property maintenance, plumbing, building, HVAC and electrical code requirements; Chapter 7 regulates trash, sewage and air and noise pollution; Chapter 11 deals with health and sanitation; and Chapter 14 sets out City planning and zoning regulations. Copies of portions of the Independence City Code may be obtained by contacting the City Clerk's Office, and questions about particular provisions or requirements of the Code may be directed to the City Law Department. Inquiries about filing a complaint under the City's Fair Housing Code should be directed to the Human Rights Commission by contacting the Human Relations Department of the City of Independence. The above referenced City offices are located at:

City Clerk or Law Department
City Hall
111 E. Maple
Independence, Missouri 64050
(816) 325-7000

Human Relations Department
223 N. Memorial Drive
Independence, Missouri 64050
(816) 325-7388

LEASE AGREEMENTS

The Rental Negotiations

Someone planning to rent an apartment or house should inspect it closely first. The landlord or a representative should go too, so that both parties know the condition of the premises and so the landlord can disclose any defects.

After the inspection and before a rental agreement is signed, any deficiencies found in the apartment and any agreements concerning repairs should be put in writing. This document should be signed by all parties or else a witness should be present when the inspection and agreement are made. The premises, when rented and at all times afterward, must comply with the City's property maintenance requirements as described in this guide.

The tenant should read carefully any written lease before signing it. If the tenant does not agree with some of the lease terms, the tenant can seek to negotiate changes with the landlord. If the tenant does not understand some part of the lease, the tenant should contact an attorney before signing.

Once the lease is signed the tenant is bound by its terms unless the lease, or portions of it, is later found by a court to be unenforceable.

The Rental Agreement

A rental agreement is a contract between two parties. Both parties agree to certain conditions, one of which is that the landlord is renting property to a specific tenant. If someone later moves in with the tenant, this new person is not a tenant unless the landlord indicates acceptance. Occasionally, the new person remains after the original tenant has moved. Unless the landlord agrees to let this person stay, the person is trespassing. If the landlord wants such a person to move, the landlord can file an unlawful detainer action in Jackson County Circuit Court.

There are two basic kinds of rental agreements: written leases and oral agreements. A written lease should identify the landlord and tenants by name and give a specific description of the property, the length of the lease, the amount of rent, the date rent is to be paid, and the place to which the rent should be sent. The lease also should state the notification required for ending the lease and spell out actions by the tenant or landlord that justify ending the lease. The lease also should state what utilities are to be supplied by the landlord and the amount of security deposit required, if any. If the landlord is to supply utilities, the tenant should check before signing the lease with each utility service to determine whether charges have been paid when due and whether there has been any shut-off because payments were overdue or not paid at all.

An oral agreement to rent may be legally binding, even though it is not in writing. Any oral agreement to rent a property for less than one year, regardless of whether the rent is paid weekly, monthly or otherwise, is a month-to-month agreement--that is, it is enforceable a month at a time.

Due Dates for Rent Payments

A written lease should state when rent is due and may provide for late charges if the rent is not paid by a certain date. In an oral agreement, the rent is due monthly on the date that the agreement is entered into unless the landlord and tenant agree to a different payment arrangement.

Raising the Rent

In a written lease, the landlord cannot charge more for rent than is stated in the lease. In an oral agreement, the landlord cannot force the tenant to pay increased rent unless the tenant agrees in writing. If the landlord wants to increase the rent and the tenant does not agree, the landlord must end the tenancy (the time period during which the tenant may stay on the property). To do that, the landlord must give written notice at least one month before the next rent-due date. After that, if the tenant still refuses to pay the increased rent, the landlord can start a legal proceeding called an unlawful detainer action.

Rent Receipts

The tenant should be sure, when paying rent, to pay by check or get a written receipt. Unless the tenant has paid by check or has a receipt, it is almost impossible to prove payment has

been made. Many tenants pay by money order, but a money order receipt is not necessarily enough proof of payment. The tenant also should get a receipt for any deposit given to the landlord. The receipt should state clearly what the deposit was for and the conditions under which it should be returned. These deposits, may include, if required by the landlord, a payment to hold a rental property. The receipt should state clearly whether or not this payment is to be returned, and if so, when. If the landlord retains this deposit, the receipt should state whether it will be applied to rent or to the tenants' security deposit or be kept by the landlord as an application fee.

Length of the Tenancy

A written lease should state clearly the length of the tenancy (the time period during which the tenant may stay on the property if rent is properly paid and the tenant does not violate any of the other conditions of the lease).

Both the landlord and the tenant should understand that the length of the tenancy is not necessarily the same as the length of time between rent-paying dates. For example, a landlord could agree to rent an apartment for six months but require that the rent be paid every 30 days.

The landlord and tenant are bound by the length of the tenancy unless either party violates the lease. Tenants, especially, should be aware of what this can mean. If a tenant enters into a one-year lease, but decides to move after two months without the landlord's permission, and if the landlord has not broken the lease, the tenant could owe the landlord 10 months' rent, even though the tenant is not living on the premises any more.

In some written lease agreements, the landlord agrees to return the tenant's security deposit only if the tenant remains in the premises for a certain time, such as one year. This does not necessarily make the lease agreement a one-year lease.

Ending the Tenancy

In a written lease agreement, both the tenant and the landlord must end the tenancy as stated in the lease.

In an oral agreement for less than one year, a month-to-month tenancy is created. Unless the landlord first gives written notice to vacate to the tenant at least one month before the date that rent is due, the landlord cannot break this agreement as long as the tenant pays the rent on time. However, the landlord need not state a reason for taking that action. If a tenant is behind in rent payment, the landlord is not required to give any notice, and can immediately file suit to evict the tenant and recover any rent owed.

If the tenant is the one who wants to end an oral rental agreement, the tenant must give the landlord a written notice at least one month before the next rent-due date.

The written notice should be given personally to the landlord or a representative and not mailed. If the tenant fails to give the landlord notice, the tenant may be liable to the landlord for rent during the period after the tenant moves out and before a new tenant moves in.

If the tenant gives the landlord proper notice that the tenant will be moving on a certain date but then fails to move, the tenant may be required to pay the landlord double rent for any occupancy after the notice date.

Security Deposits

Landlords commonly require a security deposit from their tenants. The deposit cannot be more than two months' rent, although an additional amount can be required for pets.

When a tenancy ends, the landlord must tell the tenant, in person or in writing, an inspection date to determine whether there has been any damage. The tenant has the right to be present at the inspection.

Within 30 days after the tenancy ends, the landlord either must return the entire deposit to the tenant or give the tenant a written, itemized list of damages for which all or part of the deposit is being withheld. If only part of the deposit is withheld, the landlord must return the remainder with the itemized list. A landlord may withhold money from the deposit to cover the cost of any damage to the dwelling other than normal wear and tear; any back rent the tenant owes; or any rent lost because the tenant failed to give proper notice for ending the tenancy.

The landlord is only obligated to send the security deposit and the itemized list of damage to the tenant's last known address, so it is important for the tenant to make it known where the tenant will be staying during the 30 days after the tenancy ends.

Any landlord who wrongfully withholds all or part of a security deposit can be ordered by a court to pay the tenant twice the amount wrongfully withheld.

New Owners

If the landlord should sell a rental property, the tenants still are obligated to pay rent to the original landlord unless they accept the new owner as their landlord by paying rent to the new owner. When the new owner demands rent, each tenant must be shown the deed to the premises. If a tenant then refuses to pay rent, the new owner may evict that tenant by filing a special court action. If the tenant accepts the new owner by paying rent, a new landlord and tenant relationship is created, and the tenant cannot claim later as a defense that the landlord did not display the deed to the property.

Anyone wanting to buy rented property should talk to a lawyer concerning existing leases and problems that might arise, such as security deposits the tenants gave to the previous owner.

EVICTIONS

The only legal way to evict a tenant is through the courts. Evictions are governed by Chapters 534 and 535 of the Revised Statutes of Missouri. There are two types of court actions for eviction that a landlord can file: A rent and possession action and an unlawful detainer action. The landlord must be aware of the requirements of each one and follow them precisely, or the associate circuit court judge may dismiss the suit.

A rent and possession action (also known as a landlord's complaint) is a suit against a tenant who is behind in rent. An unlawful detainer action is a suit by a landlord against a tenant who has not moved out after the landlord has properly ended the tenancy.

Giving Notice

Notice is not required prior to filing a rent and possession action. The only requirements for filing are that the tenant be behind in paying rent and that the landlord has demanded payment.

Before filing an unlawful detainer action, however, the landlord must end the tenancy by giving the tenant proper notice. This notice must be given according to the terms of the written lease or, if there is an oral agreement, the notice must be delivered personally to the tenant by the landlord or a representative. This delivery must occur at least one month before the next date that rent is due. If the tenant cannot be found, the notice can be posted on the tenant's door. Anyone finding an eviction is necessary should talk to a lawyer about notice and court proceedings before taking action against a tenant.

Filing the Complaint

The landlord may file either a rent and possession petition or an unlawful detainer petition in the associate circuit court. The landlord, a representative or attorney must go to the county courthouse and complete either a landlord's complaint or an unlawful detainer complaint. The landlord's complaint form is supplied by the court and can be completed there. An unlawful detainer form is not supplied; the complaint must be prepared by the landlord or an attorney.

When either complaint is filed, the landlord must pay a filing fee and a fee for the cost of serving (that is, delivering) the complaint.

Serving the Complaint

After a complaint is filed, it and a summons to appear in court are sent to the court administrator's office. In both a rent and possession action and an unlawful detainer action, a process server then takes the complaint and a summons and tries to serve (deliver them to) the tenant or a member of the tenant's family over the age of 15 years living at the address stated in the complaint. In a rent and possession action (but not in an unlawful detainer action), the landlord also may ask that a copy of the summons and complaint be mailed to the tenant and

posted on the rental property at the same time the process server starts trying to deliver them personally.

If a process server is successful in serving a summons under either kind of court action, the court date must be set for at least five days after the summons is served.

In all unlawful detainer actions, and in rent and possession actions where initial service by mail and posting is not requested, the plaintiff must request an alias summons if the process server is unable to serve the defendant at least five days before a court date that was established when the complaint was filed. This means a new court date will be set and service will be attempted one more time.

When the process server has failed to serve the tenant, the landlord has two options. The landlord can request an Associate Circuit Court order appointing a process server of the landlord's choice to try to serve the summons again. Or, the landlord can request that service be made by mail and posting.

In either unlawful detainer or rent and possession suits where mail and posting are used, the court date must be more than 10 days after the mailing and posting. Once this period has passed, a judge may hear the case and return possession of the property to the landlord, even if personal service of the complaint and summons was unsuccessful. However, under these circumstances the judge cannot rule that the tenant owes the landlord any rent.

During and After the Trial

The day of the trial, the landlord and tenant must bring all of their evidence (receipts, records, leases, notices to vacate and so forth) and witnesses. Either party may be self-represented or may be represented by an attorney; however, neither party may send a person who is not an attorney to represent them in court. A landlord who is a corporation must be represented by an attorney.

If the tenant loses the case, the tenant has 10 days to appeal. If the tenant does not appeal the decision within 10 days, the landlord may pay a fee to the court administrator and request that a "writ of execution and restitution" be issued. This writ directs the sheriff to evict the tenant and the tenant's possessions and give the rental property back to the landlord.

Before a county deputy physically evicts a tenant, the county usually will send a "notice to vacate premises" telling the tenant of the requirements to move out by a certain date. If the tenant does not move out by that date, the deputy will physically move the tenant and put the tenant's possessions outside.

If the notice to vacate is the first notice that the tenant has received, and the tenant is unaware that a court proceeding has occurred, the tenant should see a lawyer immediately.

Criminal Violations

Sometimes a landlord will try to evict a tenant by force (removing the front door, changing the locks, turning off the utilities, etc.). These actions usually are violations of both criminal and civil law, and the landlord may be subject to criminal prosecution as well as a lawsuit seeking damages.

The tenant, on the other hand, could be subject to criminal prosecution and a lawsuit if the tenant intentionally destroys or damages the landlord's property or gives false information to the landlord on a written application. The tenant also can be prosecuted if the tenant refuses, after reasonable notice, to allow the landlord to enter the property to make inspections or repairs.

Making inspections or repairs constitute the only reason a landlord can demand to enter an apartment. A landlord is trespassing if the landlord enters an apartment in a non-emergency situation without giving reasonable notice to the tenant.

Evictions in Public and Subsidized Housing

Additional procedures for evicting tenants from public housing are set out in federal statutes and regulations. A tenant in public housing cannot be evicted until the tenant has been given the chance to have a hearing before a hearing officer or hearing panel.

Subsidized housing is provided by the federal government through several programs. The procedures a landlord must take to evict a tenant are set out by federal law according to the program involved. All include written notice to the tenant. To learn more about these statutes and regulations, contact your local HUD office at:

U.S. Department of Housing & Urban Development
400 State Avenue
Kansas City, Kansas 66101-2406
(913) 551-5644

PROVISIONS OF INDEPENDENCE LANDLORD AND TENANT CODE

The Code of the City of independence in Chapter 4, Article 11, Paragraph .001 sets out acts of a landlord that are prohibited.

Prohibited Acts of Landlords

Landlords are prohibited from:

Leasing or otherwise permitting the occupation of any dwelling unit which does not comply with requirements of Sections 4.01.011 through 4.01.031 of the City Code.

Removing or excluding a tenant or a tenant's personal property without following those eviction procedures set out in the Missouri statutes.

Willfully turning off electric, gas, water or sewer services to the dwelling unit with the intent of evicting a tenant without judicial process and court order. Note: This provision does not relieve a tenant from liability for any utility payments for which the tenant is legally responsible.

Leasing or otherwise permitting the occupation of any dwelling unit without providing the lessee or tenant a copy of the Independence Landlord/Tenant Guide and obtaining the lessee or tenant's signature as proof of receipt.

The Code of the City of Independence in Chapter 4, Article 1, Paragraph .002 sets out acts of a tenant that are prohibited.

Prohibited Acts of Tenant

Tenants are prohibited from:

Willfully misrepresenting material information to a landlord in a written rental application with the intent of obtaining possession of a dwelling unit.

Damaging leased premises.

Refusing the landlord entry to inspect the leased premises for the purpose of making repairs.

Damaging or removing part of the structure or dwelling unit or the facilities, equipment or appurtenances or failing to take reasonable steps to prevent any other person from doing so; or taking additional occupants, subleasing, renting or turning over the premises to any person without the landlords knowledge and consent.

Additional Provisions

Deficient property is designated by the Code Official. A dwelling unit may be designated as a deficient property when a landlord fails to correct violations identified in a formal enforcement action. A dwelling unit may be designated as a deficient property when the dwelling unit is the subject of three, separate, formal enforcement actions by the Code Official within a single year. A formal enforcement action means the steps taken by the Code Official or the official's duly authorized designee, to cause property to be maintained in accordance with the requirements of this Article, initiation of which requires written notification from the Code Official to the landlord.

Disorderly houses are prohibited. A disorderly house is a dwelling unit where the conduct of persons on or about the premises of the dwelling unit unreasonably interferes with the neighbors' peaceful enjoyment of their premises.

Enforcement of Landlord and Tenant Code

All provisions of the Landlord Tenant Code, Chapter 4, Article 11, may be enforced by a complaint filed with the City Code Enforcement Department or by a complaint filed with the City Prosecutor by a Code Enforcement Officer who has personally observed conditions violating the section. A complaint with the Code Enforcement Department may be filed by a landlord, tenant or neighbor of the dwelling unit. Complaints regarding violation of other provisions of the Code may be filed with the City Prosecutor and may be filed by the landlord or the tenant. Complaints filed with the City Prosecutor will be heard in Municipal Court the same as for other ordinance violations.

Complaints

Complaints with the Code Enforcement Department should be filed on forms provided. These forms can be obtained by contacting the Code Enforcement Department. Within 10 days of receiving the complaint the Code Enforcement Department will send the person complained against (defendant) notice of the complaint. The defendant then has 10 days in which to respond in writing to the complaint. After receiving the defendant's response, the Code Enforcement Department will set a hearing date and will notify the complainant, the defendant, and any additional landlords) and/or tenant(s) of the time and place of the hearing.

If, at the hearing, the Code Enforcement Department finds that there is a violation of the Landlord and Tenant Code, the Code Enforcement Department will notify the person responsible for the violation (usually the defendant) of the violation and will direct the time and manner in which the violation will be corrected. Failure of the person responsible for the violation to correct the violation in the time and manner specified can result in a complaint being filed with the City Prosecutor, which will be prosecuted in Municipal Court.

In addition to conducting a hearing for the Landlord and Tenant Complaint, the Code Enforcement Department has the power under the City Code to direct inspection of the dwelling unit by a City Inspector. If it is determined that the dwelling unit is unfit for human occupancy the Code Enforcement Department can refer the complaint to the City Building Inspector, who can take steps to (1) order the building vacated; and (2) find that the premises of the dwelling unit is an unsafe building and order that it be repaired or demolished. In situations where an emergency exists which requires immediate action to protect the public health, safety or welfare, the Code Enforcement Department may order a dwelling unit vacated without prior hearing.

ACTIONS LANDLORDS AND TENANTS CAN TAKE WHEN REPAIRS ARE NEEDED

When the Tenant Is at Fault

If the tenant fails to keep the dwelling in good repair or in a clean and sanitary condition, the landlord can:

Inform the tenant of the identified neglect.

Give the tenant proper notice (if the rental agreement is monthly) and then start eviction proceedings, or, if there is a written lease, take whatever action is provided for in the lease under those circumstances.

File a lawsuit against the tenant for damages.

When the Landlord Is At Fault

If the landlord fails to keep the property in good repair, the tenant has several options:

The tenant can inform the landlord of the deficiencies.

The tenant can file suit against the landlord under the provisions of Missouri's Inadequate and Deficient Housing statute (Sections 441.500 et seq. R.S.Mo.). Before attempting this the tenant should first talk to an attorney. This statute requires the following:

- 1 The tenant must notify the landlord of the defects in writing, give a reasonable time for repair, and state that the tenant intends to withhold rent if repairs are not made.**
- 2. This rent must be saved and not spent by the tenant. Judges in Jackson County require that a tenant deposit all of the rent with the court before the judge will hear the tenant's complaint or defense.**
- 3. If the landlord sues the tenant for rent and possession of the property, the tenant can deposit all of the rent money with the court. The judge will then hear the case. If the judge finds that the landlord has failed to keep the property in a liveable condition, the judge could rule that the tenant does not owe any rent or, more commonly, reduce the amount of rent owed.**

If the landlord still has not corrected the deficiencies, the tenant can sue for money as damages or, under certain conditions, can sue the landlord specifically to fix the deficiencies.

Failure of a Landlord to Maintain an Apartment Building

If the landlord fails to maintain an entire apartment building rather than just one tenant's apartment, the tenants can file suit in associate circuit court, asking the court to appoint a receiver to make repairs.

The tenants must have the Building Official, the Code Enforcement Department, the Fire Department, or all three, inspect the building. The inspectors need to be able to get into all of the apartments to make a complete inspection.

If the landlord does not make the repairs within a reasonable time after receiving notice of the deficiencies, and if persons in a third or more of the available dwellings are willing to take part as plaintiffs, the tenants may file a suit in circuit court.

If the court finds that a building is a nuisance, the court will order all of the tenants in the building to pay their rent to the court or the receiver. The court will then order the owner or receiver to make the necessary repairs using this money. If the tenants continue to pay their rent, the court will let them live in the building without fear of eviction for a year starting when the lawsuit is filed in court. This protects the tenants from possible revenge by the landlord.

OTHER PROBLEMS

Many other problems can occur between landlords and tenants that are not covered specifically by City ordinances and codes or Missouri law. Negotiation between the landlord and tenant probably is the best way to handle such situations. However, if that fails, the two parties should contact one of the agencies listed below or talk to an attorney.

Here are some examples of situations that call for individual negotiation or a ruling by a court:

What constitutes normal wear and tear in an apartment, particularly if a tenant has been in the apartment a long time?

How long can a tenant have a visitor in the living quarters before the visitor is considered to be living there?

Who is responsible if a tenant's belongings are damaged by flooding due to broken water pipes or a fire due to bad electrical wiring?

What are permissible reasons for eviction?

How often and by how much can a landlord raise the rent?

What can a tenant do if the deposit was not returned when the tenant moved out?

UTILITIES

Independence Power and Light, Water and Water Pollution Control (Sewer)

The City of Independence operates an electric utility, a water and a water pollution control department. New customers must contact the City Utility Customer Service Center, 11610 E. Truman Road, 325-7930. One working day's notice is required before service can be turned on. A deposit is required. The customer remains liable for the cost of service until the City is notified of a change.

The City has service policies regulating the manner in which service is provided, the equipment necessary for the service and the conditions under which service may be terminated. Questions regarding utility service and billing should be directed to Customer Services, 325-7930. Questions regarding electrical equipment and safety should be directed to Building Inspections, 325-7409 or Fire Prevention, 325-7121. Questions regarding sewer maintenance should be directed to Independence WPC/Sewer Maintenance, 325-7727.

FIRE PREVENTION

The goal of the Fire Prevention Division of the Independence City Fire Department is to provide an environment in which one can live and work free from the hazards of fire and explosion. Anyone who believes that a fire hazard exists, whether in their home, office, plant or elsewhere, may request an inspection. These hazards usually include accumulations of trash, faulty wiring, or storage of flammable liquids or other hazardous materials. Fire Prevention personnel will conduct an on-site inspection and make written recommendations for abating the problem and set time limits for resolution. In some cases, referral is made to other agencies for resolution. Information is also available regarding wood-burning stoves or fireplaces, types of fire extinguishers recommended for home use, and regulations regarding open burning.

Fire Prevention services may be reached by calling 325-7121, 8 a.m. - 5 p.m., Monday through Friday. If an immediate hazard exists, regardless of time or day, call 9-1-1 or 461-2121, or non-emergency number 461-2124.

AGENCIES THAT CAN HELP

IN CASE OF EMERGENCY, DIAL 9-1-1

**City of Independence
Code Enforcement Department
111 E. Maple
Independence, MO 64050
325-7193 8 a.m.- 5 p.m. weekdays
325-7195 after hours messages
(nuisances, property and health hazards)**

**City of Independence Building Inspection
111 E. Maple
Independence, MO 64050
325-7409
(structural hazards)**

**City of Independence Health Department
223 N. Memorial Drive
Independence, Missouri 64050
325-7182
(health hazards)**

**Human Relations Commission
Attn: Human Resources Department
223 N. Memorial Dr.
Independence, MO 64050
325-7388
(discrimination disputes between
landlords and tenants)**

**City of Independence Fire Prevention
950 N. Spring
Independence, MO 64050
325-7121
(fire hazards)**

**Independence Power & Light
21500 E. Truman Road
Independence, MO 64056
325-7550
(electrical hazards)**

**Independence Water Department
11610 E. Truman Road
Independence, MO 64050
325-7658 7:30 a.m.- 4 p.m. weekdays
325-7640 after hours
(water service hazards)**

**Independence WPC/Sewer Maintenance
14909 E. Truman Road
Independence, MO 64050
325-7727
(sewer backups)**

**Legal Aid of Western Missouri
1005 Grand
Kansas City, MO 64106
474-6750
(free legal advice to low income qualifying
persons)**

**Housing Authority of Independence
Central Office
210 S. Pleasant
Independence, MO 64050
836-9200
(low rent and public housing)**

**Community Services League
300 W. Maple Street
Independence, MO 64050
254-4100
(winterization & utility assistance)**

**U.S. Department of Housing & Urban
Development
400 State Avenue
Kansas City, KS 66101-2406
(913) 551-5644
800-669-9777 (Discrimination Hotline)
www.hud.gov**

APPENDIX A

ARTICLE 11. LANDLORD AND TENANT CODE

SEC. 4.11.001. ACTS OF LANDLORD PROHIBITED.

A. It shall be unlawful for any landlord to lease or otherwise permit or allow the occupation of any dwelling unit which does not comply with the requirements of Sections 4.01.011 through 4.01.031 of the Independence City Code.

B. It shall be unlawful for any landlord to remove or exclude a tenant or a tenant's personal property from the premises without judicial process and court order.

C. It shall be unlawful for any landlord to willfully diminish services to a tenant by interrupting or causing the interruption of essential services, including, but not limited to electric, gas, water, sewer, to the tenant or to the premises with the intent thereby to evict a tenant or cause a tenant to vacate said premises without judicial process and court order.

D. It shall be unlawful for any landlord to lease or otherwise permit or allow the occupation of any dwelling unit without providing the lessee or tenant a copy of the Independence Landlord/Tenant Guide, and obtaining the lessee or tenant's signature as proof of receipt. Any landlord who fails to show such proof of receipt to the Code Official, when requested to do so when the landlord's property is the subject of a code enforcement action by the Code Official, shall be subject to a One Hundred Dollar (\$100.00) fine in Municipal Court.

SEC. 4.11.002. ACTS OF TENANT PROHIBITED.

A. It shall be unlawful for any person, in a written application to become a tenant, to willfully misrepresent material information to the landlord with the intent to deceive the landlord and thereby acquire possession of a dwelling unit.

B. It shall be unlawful for any tenant to willfully break, destroy, deface or injure premises, or any part thereof, leased from a landlord.

C. It shall be unlawful for any tenant to willfully refuse to permit or allow the landlord to enter and inspect the leased premises for the purpose of making repairs, upon reasonable notice, or without advance notice if an emergency condition exists, absent a written lease which provides otherwise.

D. It shall be unlawful for a tenant to willfully or wantonly destroy, deface, damage, impair or remove any part of the structure or dwelling unit or the facilities, equipment, or appurtenances thereof, or to fail to take reasonable steps to prevent any other person on the premises from doing so; or to take additional occupants, sublease, rent or turn over said premises to any persons without the landlord's knowledge and consent.

SEC. 4.11.003. DEFICIENT PROPERTY.

A. A dwelling unit may be designated as a deficient property by the Code Official when a landlord fails to correct violations identified in a formal enforcement action.

B. A dwelling unit shall be designated as a deficient property when the dwelling unit is the subject of three, separate, formal enforcement actions by the Code Official within a single year.

C. For the purposes of this Article, formal enforcement action shall mean the steps taken by the Code Official or the official's duly authorized designee, to cause property to be maintained in accordance with the requirements of this Article, initiation of which requires written notification from the Code Official to the landlord. Such notification shall identify each violation and include a date certain for correction of each violation.

D. At the time of the determination, the Code Official shall furnish notice of such determination to the landlord and the dwelling unit's tenant(s). A deficient property shall be subject to periodic interior and exterior inspections by the Code Official for a three-year (3) period, that the property has been determined deficient. A deficient property may not be occupied by a new tenant until the unit has been inspected by the Code Official and determined to be in compliance with the City Code.

SEC. 4.11.004. REMEDY AND PENALTY NOT EXCLUSIVE.

All remedies and penalties provided in this Article shall be in addition to all other provisions of this Code, and not in lieu or exclusive thereof; provided, however, that no action may be taken against any person in violation of that person's rights as guaranteed by the Fifth Amendment to the United States Constitution.

SEC. 4.11.005. AUTHORITY TO ISSUE CITATIONS.

Either the Director of Health, or the Code Official, or his or her authorized representative, is authorized to issue complaints and serve citations on persons charged with a violation of this Article.

SEC. 4.11.006. PENALTY.

Any person, firm or corporation who shall violate a provision of this Article shall, upon conviction thereof, be subject to a fine of not less than One Hundred Fifty Dollars (\$150.00) for the first conviction, a fine of not less than Three Hundred Dollars (\$300.00) for the second conviction, and a fine of not less than Five Hundred Dollars (\$500.00) for the third and subsequent convictions or to imprisonment not exceeding a period of six (6) months, or both such fine and imprisonment. In addition to or in-lieu-of such fines, such person may be required to complete a training course regarding property maintenance, and may be required to provide community service.

SEC. 4. .007 - 4. .999 RESERVED.

APPENDIX B Forms

THE HUMAN RELATIONS COMMISSION

The City of Independence, Missouri
223 North Memorial Drive, Independence, Missouri 64050
1-816-325-7798



PLEASE PRINT OR TYPE

1. PERSON MAKING THE COMPLAINT (Ms.)
(Mrs.)
(Mr.) _____

2. Street Address _____
City _____ State _____ Zip Code _____ Phone _____

3. I WISH TO COMPLAIN AGAINST (Ms.) (Mrs.) (Mr.) _____

4. Street Address _____
City _____ State _____ Zip Code _____ Phone _____

(Use a separate form for each agency, company, union, employment agency, or place of public accommodation, if more than one is complained against).

5. WHAT DO YOU BELIEVE WAS THE REASON FOR THE DISCRIMINATORY TREATMENT?
6. (Check all that apply)

Age _____ Handicap _____ Race or Color _____ Sex _____
Ancestry _____ National Origin _____ Religion or Creed _____

7. HAVE YOU FILED A COMPLAINT WITH ANY OTHER AGENCY OR ORGANIZATION, OR WITH THE STATE OR FEDERAL GOVERNMENT? HAVE YOU FILED A GRIEVANCE WITH A LABOR UNION OR TAKEN ANY OTHER ACTION BASED ON THIS COMPLAINT? ____ Yes ____ No

8. HAVE YOU EVER FILED A COMPLAINT WITH THIS AGENCY BEFORE? ____ Yes ____ No

9. THE MOST RECENT DATE ON WHICH DISCRIMINATION TOOK PLACE?

Month _____ Day _____ Year _____

10. EXPLAIN WHAT UNFAIR THING WAS DONE. Using the form on the reverse, include the date or dates of all incidents whenever possible. A short statement in your own words is enough, but you may use additional sheets of paper if needed. If you use additional sheets of paper, be sure to sign and date each additional sheet.

11. FORWARD THE COMPLETED FORM AND ALL RELATED DOCUMENTS TO THE HUMAN RELATIONS COMMISSION.

(Signature)

(Date)

**CITIZENS WITH DISABILITIES ADVISORY BOARD
THE CITY OF INDEPENDENCE, MISSOURI
223 North Memorial Drive, Independence, Missouri 64050
(816) 325-7798**

CITIZENS WITH DISABILITIES COMPLAINT FORM



Date: _____

NAME: _____

CITY/STATE/ZIP: _____

HOME TELEPHONE: _____ WORK TELEPHONE _____

DESCRIPTION OF THE COMPLAINT (Please be specific and include dates, names, places, witnesses, etc. Please use additional pages as necessary. If you do use additional pages, please be sure to sign and date each page).

I certify that all statements here included are true to the best of my knowledge.

Signature of Complainant

Date

Action stated by the Investigator: _____

Signature of the Investigator

Date