

# **RIGHTS AND DUTIES OF TENANTS**

This booklet contains information about your rights and duties as a tenant in Ann Arbor. The booklet is divided into three sections. The white section is written by the City. The green section is written by tenant advocates. The blue section is written by landlord advocates.

Portions of the booklet are written by advocates because the people of the City believe that the tenant can obtain the most accurate and fair understanding of the rights and duties as tenants by an uncompromised and uncensored presentation of materials by advocates for often conflicting points of view. The landlord and tenant sections are both written or approved by attorneys.

THE THREE SECTIONS OF THIS BOOKLET ARE THE OPINIONS OF THEIR AUTHORS. IF YOU HAVE ANY QUESTIONS CONCERNING YOUR RIGHTS AND DUTIES AS A TENANT, CONSULT YOUR OWN LAWYER, FREE LEGAL AID SOCIETY OR TENANTS' UNION LAWYER.

This booklet is distributed to tenants by their landlords as required by City Charter, sections 19.7 to 19.13. A landlord's failure to distribute this book as required by law shall be punishable by a fine up to \$500, but may not be punishable by jail.

**This section is written by authors appointed by the City.**

## **I INTRODUCTION**

This booklet is designed to help you find Ann Arbor a better place in which to live. On the following pages you will find information about your rights and duties as a tenant (lessee) and suggestions on how to govern your relations with your lessor (landlord).

This booklet is written in three sections. This first section, on the white pages, has been written with the cooperation of three groups of authors - one group comprised of lawyers from the City Attorney's Office, one group chosen to represent the tenant's point of view, and one group chosen to represent the lessor's point of view. All three groups of authors have agreed that the information in this first section is accurate. HOWEVER, THE LESSOR AND TENANT ADVOCATE AUTHORS FEEL THAT THIS FIRST SECTION IS NOT COMPLETE AND HAVE ADDED INFORMATION IN THEIR SECTIONS TO GIVE YOU WHAT EACH GROUP THINKS IS A COMPLETE PICTURE OF YOUR RIGHTS AND DUTIES. THIS ADDITIONAL INFORMATION IS CONTAINED IN THE GREEN AND BLUE SECTIONS OF THIS BOOKLET.

There may be conflicts among the points of view presented in the advocate sections of this booklet. The purpose of the law which created this booklet was to allow you to see the differing points of view which exist.

Please remember that this booklet is only a general guide, rather than the final work, on legal matters. It is not intended as a substitute for competent legal counsel.

## **II YOUR RELATIONS WITH YOUR LESSOR**

Mutual discussions of problems and questions between lessors and tenants will often be of great benefit to both parties. Fast and equitable solutions and answers are often possible. Generally, however, both lessors and tenants, when entering into discussions, should be well informed about their rights and duties.

When either party is ignorant of their rights or duties, unnecessary confusion and hostility from both sides can result. Once well informed, both parties can enter into discussion and negotiation optimistic that mutually satisfactory solutions can be found.

See the lessor and tenant advocate section of this booklet for further comment on this point.

## **III DISCRIMINATION AS TO RELIGION, RACE, COLOR, NATIONAL ORIGIN, SEX, AGE, CONDITION OF PREGNANCY, MARITAL STATUS, PHYSICAL LIMITATIONS, SOURCE OF INCOME, FAMILY RESPONSIBILITIES, EDUCATIONAL ASSOCIATION OR SEXUAL ORIENTATION**

No lessor may refuse to rent to you or to discriminate in your rental agreement or privileges because:

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- (1) Of your race, color, religion or national origin;
- (2) You are male or you are female;
- (3) Of the age of any member of your household;
- (4) You are pregnant;
- (5) You are single, unmarried, divorced or widowed;
- (6) Of physical limitations;
- (7) You get your income from welfare payments or any other legal source;
- (8) You are or might become a contributor to the support of persons in a dependent relationship;
- (9) You are a student or not a student;
- (10) You are heterosexual, homosexual or bisexual;
- (11) Of the race, color, religion, national origin, sex, age, condition of pregnancy, marital status, physical limitations, source of income, family responsibilities, educational association or sexual orientation of your relatives or associates.

Exceptions to the above rules are as follows:

- (1) A landlord can discriminate as to sex if renting an owner-occupied one or two-family dwelling, or a dwelling devoted entirely to members of one sex.
- (2) The owner of a housing project may legally restrict occupancy to persons over fifty-five (55) years of age or may restrict occupancy to handicapped persons.
- (3) A landlord may refuse to rent to an unemancipated minor.
- (4) A landlord may restrict occupancy based on age when such discrimination is *required* by law.
- (5) A religious organization or institution may restrict its housing facilities and accommodations which are operated as a direct part of its religious activities to persons of the denomination involved.

#### **IV THE LEASE OR RENTAL AGREEMENT**

Your lease can be written or oral. If the lease is for a specific period of more than a year, it must be in writing. A lease for a specific period of a year or less may be oral or in writing. Also, a lease for an indefinite period (usually month-to-month) can last for less than a year or for many years and may be oral or in writing.

Leases are contracts and, provided that their terms are enforceable, will create obligations on both the part of the tenant and the landlord. These obligations will include generally, on the part of the tenant, the obligation to pay rent when due and not unreasonably damage the dwelling and, on the part of the lessor obligation to provide a dwelling in good repair and in compliance with state and local housing codes.

Unless the lease contains a provision for rent increases, the landlord cannot increase the rent during the lease term. The rent may be increased for a month-to-month

lease by notifying you of the increase at least one month before the next payment is due.

## **V UNENFORCEABLE LEASE CLAUSES**

Some clauses contained in some leases are not enforceable. These clauses have no legal effect and are not binding even though you may have already signed the lease. A few such examples include the following:

- (1) Clauses which try to change any of the tenant's rights to legal remedies or the lessor's obligations (discussed in Sections VII, VIII and IX below) when the premises are not in reasonable repair or compliance with the state and local housing codes;
- (2) Clauses which try to change any of the tenant's rights under state law involving security deposits (discussed in Section XIV below);
- (3) Clauses claiming to excuse the lessor from liability to the tenant for damages caused by the lessor's negligence;
- (4) Clauses claiming to deny the tenant the right to trial by jury or certain other judicial procedures;
- (5) Clauses which claim that the tenant is liable for legal costs or attorney's fees incurred by the lessor in excess of the costs and fees specifically allowed by statute. (The State statutes only allow the winner of a lawsuit to collect small legal costs and attorney fees which rarely exceed a total of \$100 for a case going through trial.)

## **VI IF YOU PAY A DEPOSIT AND DECIDE NOT TO MOVE IN**

You may or may not have a right to a refund if you pay a deposit and decide not to move in. Consult the tenant and lessor advocate sections of this booklet for their views on your rights.

## **VII THE CONDITION AND UPKEEP OF YOUR DWELLING**

### **A. YOUR RIGHT TO A CLEAN APARTMENT ON ARRIVAL**

You have the right to a clean, sanitary dwelling before you move in, even if your lease says it does not have to be clean. Cleaning waivers are sometimes used when a tenant wants to move in early. Read the tenant and landlord advocate sections of this booklet for views on the validity of such a waiver and further information on this section.

### **B. YOUR RIGHT TO HAVE THE LESSOR REPAIR**

Your lessor must also keep your dwelling in good repair. It must also be kept "up to Code" - in compliance with the Ann Arbor City and the Michigan State Housing Codes. Some general requirements of the City Code are listed in Section XVI.

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You may use this list as a reference or you may obtain a copy of the Ann Arbor Housing Code from the Department of Building and Safety, located on the sixth floor of City Hall.

**C. THE CERTIFICATE OF COMPLIANCE**

The lessor is also required by law to have a Certificate of Compliance with the Ann Arbor City Housing Code and you are entitled to see it on demand. If your lessor does not have a Certificate of Compliance or there are Code violations, you may be entitled to withhold your rent. Read the tenant and lessor advocate sections of this booklet for more information on this point.

## **VIII WITHHOLDING RENT**

A. If the lessor fails to meet his or her obligations to the tenant, state law gives the tenant a right to withhold all or part of the rent under certain circumstances. The right to withhold all or part of rent may occur in the following situations:

- (1) If the lessor violates the terms of the lease agreement; or
- (2) If the lessor fails to maintain the premises in reasonable repair; or
- (3) If the lessor fails to comply with the State or City housing codes; or
- (4) If there is a total or partial constructive eviction. Such a constructive eviction occurs if the conduct or misconduct of the lessor makes all or part of the dwelling uninhabitable; or
- (5) If the lessor imposes a retaliatory rent increase. A retaliatory increase occurs when the landlord raises the rent because a tenant took an action which was legally the tenant's right - such as making a complaint concerning the condition of the premises. In this instance, only rent in excess of the original amount may be withheld.

Withholding rent may lead to legal action by the lessor to evict you. You may be able to use as a defense that you withheld rent for one of the above purposes and you may have counter-claims. If there is a suit for nonpayment of rent, you have the right, except in rare situations, to avoid eviction by payment of the rent. Consult the tenant and landlord advocate sections of this booklet for further information on withholding rent.

B. If you decide to withhold rent, the following procedures are strongly recommended by both the lessor and tenant advocate authors:

- (1) Make a list of everything that is wrong with your dwelling and of every violation of the lease by the lessor.
- (2) Send your lessor a letter, inserting your list described in paragraph (1) above, preferably by certified mail, stating that you are withholding rent because of the condition of your dwelling and/or violations of the lease by the lessor. Make a copy of the letter and keep all of the mail receipts.

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- (3) You may, at some future time, be required to pay some or all of the rents you have withheld. Accordingly, it is wise to set up a separate rent fund so that the money will be available when and if payment is required.

## **IX SUING THE LESSOR TO OBTAIN REPAIRS**

Another way to obtain repairs is to sue the lessor. Read the landlord and tenant advocate sections of this booklet for information on this.

## **X THE TENANT'S RIGHT TO PRIVACY AND THE LESSOR'S LIMITED RIGHT TO ENTER**

When you are a tenant, your dwelling is yours to have and peacefully enjoy. Your lessor does not have the right to enter your dwelling without your permission, in most cases.

It is courteous and makes sense to allow your lessor appointments at mutually convenient times under the following circumstances:

- (1) To do repairs;
- (2) To show the dwelling to perspective tenants;
- (3) To permit City inspectors to perform routine inspections or inspections pursuant to complaints regarding the dwelling.

The lessor may be liable for trespass in case of unlawful entry. The tenant may be liable for damages in case of unreasonably denying appointments to enter. If a City inspector is refused entry, he may obtain a search warrant to require you to permit an inspection.

See your advocate sections for further opinions about your important right to privacy and your lessor's limited right to enter.

## **XI EVICTION PROCEDURE**

### **A. GROUNDS FOR EVICTION**

If you have a lease for a specific period of time, neither you nor the lessor may cancel the lease without specific grounds. The lessor may only commence eviction proceedings against you for the following reasons:

- (1) You have not paid rent and are not legally withholding it; or
- (2) You have willfully or negligently caused a serious and continuing health hazard, or an extensive and continuing health hazard, or an extensive and continuing physical injury to the premises, and you refuse to correct the health hazard or physical injury within seven days after a notice to do so or leave; or
- (3) The lease period has expired; or

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- (4) You have violated a lease provision which is so important as to justify eviction.

YOU MAY HAVE DEFENSES TO SOME OR ALL OF THE GROUNDS FOR EVICTION WHETHER YOUR LEASE IS FOR A SPECIFIC PERIOD OF TIME OR A "MONTH-TO-MONTH" ORAL AGREEMENT. READ THE RESPECTIVE ADVOCATE SECTIONS.

**B. ILLEGAL PROCEDURES**

Unless you agree to turn over the premises to the lessor, he must follow the legal procedures described below to obtain possession of the dwelling. These procedures must be followed even if the lessor is legally entitled to evict you. If the lessor uses means other than the prescribed legal procedures, you may be entitled to sue the lessor for triple the amount of the damages you suffer. Such extra-legal procedures which will entitle you to damages include the following:

- (1) Using force to enter the premises or to forcefully remove a tenant;
- (2) Changing locks to prevent a tenant from re-entering the premises;
- (3) Disconnecting utility services to the premises;
- (4) Moving your possessions from the premises without your permission unless the lessor has won an eviction suit against you and has a court order or you have abandoned the premises.

**C. NOTICES**

Except in a case where a lease has expired, a lessor is obligated to serve upon you, either personally or by mail, a notice prior to starting an eviction suit. The following are the types of notices used:

- (1) A seven-day "Notice to Quit" (move) or pay the rent due.
- (2) A seven-day "Notice to Quit" (move) or repair serious defects caused by you or to cease serious health hazards caused by you.
- (3) A notice to "terminate the tenancy." This notice is used to terminate a written or oral lease for an unspecified period, such as a month-to-month lease. It must be served on you at least one rental period prior to the termination date mentioned in the notice. Such a notice may also be used to terminate a lease because of a violation of lease terms.

If you receive one of these notices and don't intend to comply with it, you should immediately seek legal assistance. Read your respective advocate section about your rights.

**D. SUMMONS AND COMPLAINT**

The summons and complaint are the documents by which a lessor begins suit against a tenant. The complaint states the reasons that the lessor feels entitled to evict you. The summons gives you the date when you must appear in court and file an answer. If you fail to appear on the date specified on the summons, a default

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judgment will be entered against you by the court. When you receive a summons and complaint, it is advisable to obtain legal assistance.

**E. ANSWER TO COMPLAINT**

The answer is the document the tenant files with the court to indicate either his agreement or disagreement with the claims made in the complaint. In addition, it is the document wherein the tenant asserts any rights the tenant has against the lessor, such as rights which may arise because of code violations, breaches of the lease or illegal remedies used by the lessor.

**F. WRIT OF RESTITUTION**

If the court determines that the lessor is entitled to evict you, the judge will order the issuance of a "writ of restitution." Such a writ is served by an authorized court officer who may forcefully remove you and your possessions from the dwelling. Normally there are ten days following the judgment before a writ may be issued.

**If the eviction is for nonpayment of rent**, the writ of restitution will not be issued for at least ten days following the judgment in favor of the lessor. During that ten day period, the tenant is entitled to reinstate the lease by payment of all past due rents and court costs and is also entitled to appeal the judgment.

**G. PUBLIC HOUSING EVICTIONS**

If you live in a dwelling leased from the Ann Arbor Housing Commission, you have a right to a hearing before eviction proceedings are started against you. To obtain such a hearing, you must request it after a notice to quit but prior to receipt of the summons and complaint.

## **XII COMMON SENSE OBLIGATIONS AND DUTIES OF THE TENANT**

As a tenant you have certain legal duties in the use and enjoyment of your dwelling. In addition, common sense applies in many cases where there may not be an actual "legal" duty.

**A. LEGAL DUTIES**

- (1) Pay rent on time unless lessor has violated some obligation to you which excuses some or all of the rent.
- (2) Do not store combustible liquids in your apartment in a dangerous manner.
- (3) Vacate the premises timely at the end of your lease.

**B. COMMON SENSE ITEMS**

- (1) Promptly report, in writing, if possible, any problems or needed repair.
- (2) Do not remove furniture or fixtures from the units, if it is not yours, without the lessor's written permission.

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- (3) Try not to make an unreasonable amount of noise which might disturb your neighbors.
- (4) Do not let water escape from tubs or lavatories.
- (5) Empty trash only into containers provided.
- (6) Park only in designated areas.
- (7) Do not use sharp instruments when defrosting refrigerator.
- (8) Avoid putting foreign materials in drains that will cause clogging.

### **XIII LEASE ASSIGNMENT AND SUBLETTING**

In most cases, you can sublet your dwelling to another tenant, but you remain liable for the rent for the remainder of the lease if the subtenant fails to make rental payments. Also, you may be liable for damages caused by the subtenant. Accordingly, it is wise to sublet only to a reliable person. If the lessor is agreeable, it may be possible to have the subtenant enter into an agreement with the lessor whereby the subtenant is substituted for you for the remaining period of the lease. In such a case you would not be liable if the new tenant failed to make rental payments or caused damage.

Some leases say you cannot sublet without permission of the lessor but that the lessor's permission "cannot be unreasonably withheld." This clause is valid. Read your advocate sections for information on what is "reasonable."

Some leases say you cannot sublet at all or that the lessor can withhold permission (whether or not "reasonably") or charge a fee. Your advocate sections differ on the validity of such lease clauses.

If you do sublet, it is recommended that both tenant and subtenant read the lease, read the advocate sections of this book and attempt to obtain the lessor's written permission to sublet, if there is any restriction on subletting in the lease. Even if there is no restriction, it is common courtesy to inform the lessor when a new (sub)tenant moves in.

Also, in the interest of avoiding honest misunderstanding, it is recommended that a written agreement be signed between the tenant and subtenant. This agreement should provide for a security deposit and should include the address and commencement and expiration dates of the sublease, monthly rental and security deposit amounts, who will pay utilities and information as to how to contact the tenant and subtenant if they wish to be notified by the lessor in case any questions arise concerning the sublease. It is also recommended that the lessor be notified what forwarding address should be used for the return of the security deposit. If this agreement provides for a security deposit, the security deposit laws must be complied with.

Here are two ways for handling security deposits between tenants and subtenants:

- (1) Subtenant can pay a security deposit directly to the tenant and the subte-

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nant and tenant follow the same rules about security deposits as apply to lessors and tenants;  
or

- (2) By arrangement with a willing lessor, the lessor may return the tenant's security deposit and receive and return the subtenant's security deposit directly.

#### **XIV YOUR SECURITY DEPOSIT**

Both the lessor and lessee have certain obligations regarding security deposits. Some are mentioned below. If you have trouble getting your security deposit back after you move out, contact legal help. The provisions below apply to all leases of residential dwellings.

- A. Your security deposit by legal definition includes any rent you pay in advance other than for the first month's rent. For example, your last month's rent paid in advance is considered part of your security deposit. This security deposit cannot exceed one and one-half month's rent.
- B. The lessor must give you an address where you can write to him about your security deposit within 14 days of the day you move in.
- C. When you move in, the lessor must also give you two blank copies of an inventory checklist. You must note the condition of the unit and return one copy of the checklist to the lessor within seven days.
- D. You must notify your lessor in writing within four days after the termination of your occupancy (i.e., in most cases, the end of your lease: see your advocacy sections) of a forwarding address where you may be reached or where you may receive mail. If you fail to do this, the lessor is not obligated to give you an itemized list of damages claimed.
- E. Money may be deducted from your security deposit for the following reasons **only**:
  - (1) For actual damages to the unit which were the direct result of conduct not reasonably expected in the normal course of living there. Deductions cannot be made for normal wear and tear of the apartment.
  - (2) For unpaid rent.
  - (3) For unpaid utility bills.

YOU MAY HAVE DEFENSES. SEE YOUR ADVOCATE SECTIONS.

- F. Within 30 days after the termination of your occupancy (i.e., in most cases, the end of your lease: see your advocate sections), the lessor must mail you a list of damages, the cost of repairs and the reasons why he intends to deduct money from your security deposit. He must send you a check for the amount he claims to which you are entitled.

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- G. If you have given your lessor the forwarding address required in paragraph D and your lessor does not send this information within 30 days after the termination of your occupancy, he must send you the entire deposit.
- H. If you do not agree with the damages claimed, you must notify your lessor by **mail** within seven days; otherwise, you forfeit the amount claimed.
- I. If you have properly notified your lessor of your forwarding address and properly objected to the damages claimed, the lessor must either:
  - (1) Return the balance of the security deposit to you; or
  - (2) Start suit against you within 45 days after the termination of your occupancy. (This is not required in most cases when the lessor is only claiming money for unpaid rent. See your respective advocate sections.) Or
  - (3) Agree with you in writing about the amount the landlord will retain and the amount he will return to you.
- J. If you do not properly notify your lessor of your forwarding address or you do not object to the damages claimed within the legal time limits, you may not have waived your rights to some or all of your security deposit. See your advocate sections.
- K. The lessor is not required to comply with the foregoing procedures in the case of a non-refundable cleaning fee.

## **XV LIABILITY FOR DAMAGES**

Either party may be liable to the other for negligence or breach of contract causing personal injury or damage to property, in most cases, even if the lease says otherwise. Unauthorized alterations to the dwelling may make the tenant liable for damages.

Neither party is liable to the other for an "act of God" (such as lightning).

The lessor might possibly be liable for injury or burglary by a third person, but only if the lessor was negligent, as in not providing adequate locks or lighting, and the tenant was not negligent, as in leaving the door unlocked. Read your advocate sections for further information.

Normally, a lessor's insurance does not protect the tenant's property unless damage is caused by the lessor. It is recommended that the tenant obtain insurance to protect the tenant's property and to protect the tenant from damage claims for accidental injury to the property of others.

## **XVI SOME EXAMPLES OF CITY CODE REQUIREMENTS THAT MAY APPLY TO YOUR DWELLING**

### **A. MINIMUM SPACE AND FACILITIES**

The total floor area of a dwelling (excluding bathrooms, storage areas, closets, corridors and laundry facilities) must be at least 225 square feet.

The total floor area of each dwelling (excluding the same areas as above) must be at least 150 square feet for the first occupant and 100 additional square feet for each additional occupant.

At least one common room in a dwelling must have a minimum floor area of 120-150 square feet, dependent on the number of bedrooms. Kitchens and dining areas, if provided as separate areas, shall have a minimum habitable area of 35 and 50 feet respectively. Bedrooms in a dwelling having two or more rooms must have a total floor area of at least 70 square feet when one person sleeps in that room or a minimum floor area of 50 square feet per person when more than one person sleeps in that room. Children under 12 must have at least 40 square feet of floor area per person when two or more sleep in the room.

Every habitable room in a dwelling (excluding bathrooms, closets, etc.) must have a ceiling height of at least seven feet.

In habitable basements, at least 80% of every room must have a minimum ceiling height of 6 feet 8 inches. In rooms with sloped ceilings, at least 50% of the room must have a ceiling height of 7 feet.

No dwelling which has two or more bedrooms may be arranged so that access to the bathroom for occupants of one bedroom may be had only by passing through another bedroom, nor can access to one bedroom be through a bathroom or other bedroom.

Food may not be prepared in any room used for sleeping purposes, except in efficiencies.

Efficiency apartments must have a minimum floor area of 150 square feet for one occupant. For each additional occupant an additional 100 square feet of floor space must be provided.

Kitchenettes in an efficiency apartment must be at least three feet by five feet in size and must be accessible from the living room.

A cellar (a room which is underground where the distance from the adjoining ground to the ceiling is less than the distance from the adjoining ground to the floor) may not be used as a habitable dwelling, although it may be used for recreational purposes.

### **B. EGRESS**

All parts of multiple dwellings must have access to two separate means of egress. Both must be accessible to all occupants without passing through one to get to the other or passing through a private room or apartment.

Of the two means of egress mentioned, one may be a fire escape, if it is enclosed and maintained in a safe condition. The escape must be accessible to all occupants through a door or casement window at least either 27 inches wide X 47 inches high or 22 inches wide by 53 inches high (those exits serving only one unit may be 22 inches wide by 47 inches high). These doors or windows must open in the direction of egress.

Multiple dwellings with more than 15 rooms of sleeping accommodations for more than 30 persons must have all means of egress designated by electric EXIT signs with letters at least four inches in height.

The primary entrance of a dwelling must have exterior lighting. Dwellings with multiple entrances must have at least 2 entrances lighted.

Automatic entrance lighting is required for buildings with 4 or more units.

Storage within five feet of gas or oil fired heating devices is prohibited.

Storage in exitways is prohibited.

There are minimum dimension requirements for exitways.

### **C. LIGHT AND VENTILATION**

Every habitable room must have at least one window or skylight opening directly to the outdoors (mechanical ventilation may be substituted in bathrooms.)

Minimum total window area for every habitable room must be at least 8 percent of the floor area of such a room.

Total openable window area must be at least 50 percent of the minimum allowable window area.

In kitchens, the window space requirements may be reduced or waived if there is adequate artificial lighting.

Every habitable room must have one window or skylight which can be easily opened or other device capable of ventilating the room.

Window and outside door screens must be installed by the owner to permit adequate ventilation. These screens must be installed by the owner by May 1 and may not be removed prior to September 30. All basement windows must be screened, if required for ventilation.

### **D. ELECTRICAL SERVICE**

Every habitable room in a dwelling must contain at least two separate electrical outlets, spaced for convenience, and one switched light fixture or switched outlet.

Rooms not considered habitable (bathroom, laundry rooms, etc.) must be provided with fixtures to provide sufficient light.

Bathrooms must be provided, in most cases, with one convenience outlet, and rooms not provided with ceiling light fixtures must be provided with at least one convenience outlet or side wall lighting outlet controlled by a wall switch.

Electrical cords may not be allowed to run under rugs, through doorways, stapled to wooden baseboards or door casings or through holes in partitions or floors. Cords up to 6 feet long are allowed if they are the proper size for the devices they serve.

Wiring and fusing must be maintained in safe conditions at all times.

Smoke detectors or an automatic fire alarms system must be provided.

### **E. HEATING AND INSULATION**

Heating facilities must be adequately installed and properly maintained at all times.

Facilities must be capable of heating all habitable rooms, including bathrooms, to 68 degrees F. when the temperature outdoors is as low as 10 degrees below zero.

When owners use temporary heating devices to maintain the required temperature, they must pay a prorated share of the heating bill.

Heating units in multiple dwellings must be separately enclosed.

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Windows and cracks must be caulked. Unheated attics or top stories must be insulated to R-19 if insulated before 1985 and R-30 if insulated later. These winterization requirements do not apply in several instances, one of which is if the landlord pays all the heating bills without charge to the tenants.

#### **F. PLUMBING**

Every plumbing fixture must be properly installed and in good working condition.

Every dwelling must have a working kitchen sink equipped with sufficient hot and cold water.

All dwellings must be provided with a bathroom within the dwelling which contains a flush toilet, a sink and a bathtub or shower in good condition. The sink or shower may be outside the bathroom but must be adjacent to it.

Sinks and bathtubs or showers must be equipped with hot and cold water.

In rooming houses, there must be at least one bathroom for each eight persons. The facility must be accessible from a common hall or corridor.

Water heating facilities must be properly installed and maintained in good working condition.

Water heating facilities must be capable of providing enough water heated to 110 degrees to provide for all sinks, tubs and showers.

#### **G. SANITATION**

No dwelling is to be occupied by new tenants unless it is clean, sanitary and fit for human occupancy.

The owner of the premises is responsible for maintaining those premises in a clean condition, except for that portion of the premises which the occupant controls.

The occupant must dispose of trash or garbage in covered containers. These containers must be provided by the owner and should be sufficient to provide accommodations for two weeks of accumulation. Garbage chutes are prohibited.

All facilities required by law must function safely and must be kept in good repair. Facilities, equipment and utilities cannot be stopped or discontinued when the dwelling is occupied except for temporary repairs or during temporary emergencies.

All parts of the dwelling, including heating, lighting, ventilation and plumbing, must be kept in good repair by the owner.

#### **H. GENERAL MAINTENANCE**

Foundations, floors, ceilings, walls and roofs must be reasonably weather-tight and rodent proof, capable of affording privacy and in good repair.

Roofs must not leak and rain water must have some sanitary means of drainage.

Exterior wood surfaces must be kept from deterioration by paint or other protective treatment.

Windows and doors must always be reasonably weather-tight and rodent proof and in good working condition and repair.

Stairs, porches and all other attached features must be kept in sound condition.

#### **I. SECURITY**

All exterior windows and doors must have locking devices. Double hung windows accessible from ground level must have pin or vent locks.

Sliding windows and doors must have a rod that can be used to prevent them from being opened.

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All swinging doors accessible from the outside must have a one inch deadbolt.

Every principal entrance door must have a window, side light or wide angle peephole viewer.

The above is a partial list of code requirements. They are subject to change or variance. See your advocate section.

## **XVII HELPFUL NUMBERS IN ALPHABETICAL ORDER**

Ann Arbor Building Department 100 North Fifth Avenue	994-2678 (Housing Bureau)
Ann Arbor Housing Commission 727 Miller Avenue	994-2828
Ann Arbor Human Rights Office 100 North Fifth Avenue	994-2762
Ann Arbor Tenants Union	763-6876
Legal Services of Southeastern Michigan 420 North Fourth Avenue	665-6181
Michigan Bar Referral Service	1-800-968-0738
Student Legal Services 530 S. State	763-9920
University of Michigan Clinical Law Program 801 Monroe Street	763-4319
University of Michigan Off-Campus Housing and Dispute Resolution Services	763-4105

# **RIGHTS AND DUTIES OF TENANTS**

**This booklet contains information about your rights and duties as a tenant in Ann Arbor. The booklet is divided into three sections. The white section is written by the City. The green section is written by tenant advocates. The blue section is written by landlord advocates.**

**Portions of the booklet are written by advocates because the people of the City believe that the tenant can obtain the most accurate and fair understanding of the rights and duties as tenants by an uncompromised and uncensored presentation of materials by advocates for often conflicting points of view. The landlord and tenant sections are both written or approved by attorneys.**

**THE THREE SECTIONS OF THIS BOOKLET ARE THE OPINIONS OF THEIR AUTHORS. IF YOU HAVE ANY QUESTIONS CONCERNING YOUR RIGHTS AND DUTIES AS A TENANT, CONSULT YOUR OWN LAWYER, FREE LEGAL AID SOCIETY OR TENANTS' UNION LAWYER.**

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This section is written by authors appointed by the City.

This booklet is distributed to tenants by their landlords as required by City Charter, sections 19.7 to 19.13. A landlord's failure to distribute this book as required by law shall be punishable by a fine up to \$500, but may not be punished by jail.

## **I. INTRODUCTION**

This booklet is designed to help you find Ann Arbor a better place in which to live. On the following pages you will find information about your rights and duties as a tenant (lessee) and suggestions on how to govern your relations with your lessor (landlord).

This booklet is written in three sections. This first section, on the white pages, has been written with the cooperation of three groups of authors - one group comprised of lawyers from the City Attorney's Office, one group chosen to represent the tenant's point of view, and one group chosen to represent the lessor's point of view. All three groups of authors have agreed that the information in this first section is accurate. **HOWEVER, THE LESSOR AND TENANT ADVOCATE AUTHORS FEEL THAT THIS FIRST SECTION IS NOT COMPLETE AND HAVE ADDED INFORMATION IN THEIR SECTIONS TO GIVE YOU WHAT EACH GROUP THINKS IS A COMPLETE PICTURE OF YOUR RIGHTS AND DUTIES. THIS ADDITIONAL INFORMATION IS CONTAINED IN THE GREEN AND BLUE SECTIONS OF THIS BOOKLET.**

There may be conflicts among the points of view presented in the advocate sections of this booklet. The purpose of the law which created this booklet was to allow you to see the differing points of view which exist.

Please remember that this booklet is only a general guide, rather than the final work, on legal matters. It is not intended as a substitute for competent legal counsel.

## **II. YOUR RELATIONS WITH YOUR LESSOR**

Mutual discussions of problems and questions between lessors and tenants will often be of great benefit to both parties. Fast and equitable solutions and answers are often possible. Generally, however, both lessors and tenants, when entering into discussions, should be well informed about their rights and duties.

When either party is ignorant of their rights or duties, unnecessary confusion and hostility from both sides can result. Once well informed, both parties can enter into discussion and negotiation optimistic that mutually satisfactory solutions can be found.

See the lessor and tenant advocate section of this booklet for further comment on this point.

**III. DISCRIMINATION AS TO RELIGION, RACE, COLOR, NATIONAL ORIGIN, SEX, AGE, CONDITION OF PREGNANCY, MARITAL STATUS, PHYSICAL LIMITATIONS, SOURCE OF INCOME, FAMILY RESPONSIBILITIES, EDUCATIONAL ASSOCIATION OR SEXUAL ORIENTATION.**

No lessor may refuse to rent to you or to discriminate in your rental agreement or privileges because:

- (1) Of your race, color, religion or national origin;
- (2) You are male or you are female;
- (3) Of the age of any member of your household;
- (4) You are pregnant;
- (5) You are single, unmarried, divorced or widowed;
- (6) Of physical limitations;
- (7) You get your income from welfare payments or any other legal source;
- (8) You are or might become a contributor to the support of persons in a dependent relationship;
- (9) You are a student or not a student;
- (10) You are heterosexual, homosexual or bisexual;
- (11) Of the race, color, religion, national origin, sex, age, condition of pregnancy, marital status, physical limitations, source of income, family responsibilities, educational association or sexual orientation of your relatives or associates.

Exceptions to the above rules are as follows:

- (1) A landlord can discriminate as to sex if renting an owner-occupied one or two-family dwelling, or a dwelling devoted entirely to members of one sex.
- (2) The owner of a housing project may legally restrict occupancy to persons over fifty-five (55) years of age or may restrict occupancy to handicapped persons.
- (3) A landlord may refuse to rent to an unemancipated minor.
- (4) A landlord may restrict occupancy based on age when such discrimination is *required* by law.
- (5) A religious organization or institution may restrict its housing facilities and accommodations which are operated as a direct part of its religious activities to persons of the denomination involved.

#### **IV. THE LEASE OR RENTAL AGREEMENT**

Your lease can be written or oral. If the lease is for a specific period of more than a year, it must be in writing. A lease for a specific period of a year or less may be oral or in writing. Also, a lease for an indefinite period (usually month-to-month) can last for less than a year or for many years and may be oral or in writing.

Leases are contracts and, provided that their terms are enforceable, will create obligations on both the part of the tenant and the landlord. These obligations will include generally, on the part of the tenant, the obligation to pay rent when due and not unreasonably damage the dwelling and, on the part of the lessor obligation to provide a dwelling in good repair and in compliance with state and local housing codes.

Unless the lease contains a provision for rent increases, the landlord cannot increase the rent during the lease term. The rent may be increased for a month-to-month lease by notifying you of the increase at least one month before the next payment is due.

Pursuant to Section 8:530 of the City Code, a landlord of residential premises shall not enter into an agreement to rent the leased premises to another tenant for a subsequent lease period until 70 days of the current lease period has passed.

The Ordinance, 7-06, ENTRY TO SHOW PREMISES AND TIME FOR RENTAL AGREEMENTS, is printed in its entirety in the back of the white section of this booklet.

#### **V. UNENFORCEABLE LEASE CLAUSES**

Some clauses contained in some leases are not enforceable. These clauses have no legal effect and are not binding even though you may have already signed the lease. A few such examples include the following:

- (1) Clauses which try to change any of the tenant's rights to legal remedies or the lessor's obligations (discussed in Sections VII, VIII and IX below) when the premises are not in reasonable repair or compliance with the state and local housing codes;
- (2) Clauses which try to change any of the tenant's rights under state law involving security deposits (discussed in Section XIV below);
- (3) Clauses claiming to excuse the lessor from liability to the tenant for damages caused by the lessor's negligence;
- (4) Clauses claiming to deny the tenant the right to trial by jury or certain other judicial procedures;
- (5) Clauses which claim that the tenant is liable for legal costs or attorney's fees incurred by the lessor in excess of the costs and fees specifically allowed by statute. (The State statutes only allow the winner of a lawsuit to collect small legal costs and attorney fees which rarely exceed a total of \$100 for a case going through trial.)

## **VI. IF YOU PAY A DEPOSIT AND DECIDE NOT TO MOVE IN**

You may or may not have a right to a refund if you pay a deposit and decide not to move in. Consult the tenant and lessor advocate sections of this booklet for their views on your rights.

## **VII. THE CONDITION AND UPKEEP OF YOUR DWELLING**

### **A. YOUR RIGHT TO A CLEAN APARTMENT ON ARRIVAL**

You have the right to a clean, sanitary dwelling before you move in, even if your lease says it does not have to be clean. Cleaning waivers are sometimes used when a tenant wants to move in early. Read the tenant and landlord advocate sections of this booklet for views on the validity of such a waiver and further information on this section.

### **B. YOUR RIGHT TO HAVE THE LESSOR REPAIR**

Your lessor must also keep your dwelling in good repair. It must also be kept "up to Code" - in compliance with the Ann Arbor City and the Michigan State Housing Codes. Some general requirements of the City Code are listed in Section XVI.

You may use this list as a reference or you may obtain a copy of the Ann Arbor Housing Code from the Planning and Development Services Unit, located on the sixth floor of City Hall.

### **C. THE CERTIFICATE OF COMPLIANCE**

The lessor is also required by law to have a Certificate of Compliance with the Ann Arbor City Housing Code and you are entitled to see it on demand. If your lessor does not have a Certificate of Compliance or there are Code violations, you may be entitled to withhold your rent. Read the tenant and lessor advocate sections of this booklet for more information on this point.

## **VIII. WITHHOLDING RENT**

A. If the lessor fails to meet his or her obligations to the tenant, State law gives the tenant a right to withhold all or part of the rent under certain circumstances. The right to withhold all or part of rent may occur in the following situations:

- (1) If the lessor violates the terms of the lease agreement; or
- (2) If the lessor fails to maintain the premises in reasonable repair; or
- (3) If the lessor fails to comply with the State or City housing codes; or
- (4) If there is a total or partial constructive eviction. Such a constructive eviction occurs if the conduct or misconduct of the lessor makes all or part of the dwelling uninhabitable;
- (5) If the lessor imposes a retaliatory rent increase. A retaliatory increase occurs when the landlord raises the rent because a tenant took an action which was legally the tenant's right - such as making a complaint concerning the condition of the premises. In this instance, only rent in excess of the original amount may be withheld.

This section is written by authors appointed by the City.

Withholding rent may lead to legal action by the lessor to evict you. You may be able to use as a defense that you withheld rent for one of the above purposes and you may have counter-claims. If there is a suit for nonpayment of rent, you have the right, except in rare situations, to avoid eviction by payment of the rent. Consult the tenant and landlord advocate sections of this booklet for further information on withholding rent.

- B. If you decide to withhold rent, the following procedures are strongly recommended by both the lessor and tenant advocate authors:
- (1) Make a list of everything that is wrong with your dwelling and of every violation of the lease by the lessor.
  - (2) Send your lessor a letter, inserting your list described in paragraph (1) above, preferably by certified mail, stating that you are withholding rent because of the condition of your dwelling and/or violations of the lease by the lessor. Make a copy of the letter and keep all of the mail receipts.
  - (3) You may, at some future time, be required to pay some or all of the rents you have withheld. Accordingly, it is wise to set up a separate rent fund so that the money will be available when and if payment is required.

#### **IX. SUING THE LESSOR TO OBTAIN REPAIRS**

Another way to obtain repairs is to sue the lessor. Read the landlord and tenant advocate sections of this booklet for information on this.

#### **X. THE TENANT'S RIGHT TO PRIVACY AND THE LESSOR'S LIMITED RIGHT TO ENTER**

When you are a tenant, your dwelling is yours to have and peacefully enjoy. Your lessor does not have the right to enter your dwelling without your permission, in most cases.

It is courteous and makes sense to allow your lessor appointments at mutually convenient times under the following circumstances:

- (1) To do repairs;
- (2) To show the dwelling to prospective tenants;
- (3) To permit City inspectors to perform routine inspections or inspections pursuant to complaints regarding the dwelling.

The lessor may be liable for trespass in case of unlawful entry. The tenant may be liable for damages in case of unreasonably denying appointments to enter. If a City inspector is refused entry, he may obtain a search warrant to require you to permit an inspection.

Pursuant to Section 8:530 of the City Code, a landlord of residential premises shall not enter the leased premises for the purpose of showing the premises to prospective tenants until 70 days of the current lease period has passed.

The Ordinance, 8-01, ENTRY TO SHOW PREMISES AND TIME FOR RENTAL AGREEMENTS, is printed in its entirety in the back of the white section of this booklet.

See your advocate sections for further opinions about your important right to privacy and your lessor's limited right to enter.

## **XI. EVICTION PROCEDURE**

### **A. GROUNDS FOR EVICTION**

If you have a lease for a specific period of time, neither you nor the lessor may cancel the lease without specific grounds. The lessor may only commence eviction proceedings against you for the following reasons:

- (1) You have not paid rent and are not legally withholding it; or
- (2) You have willfully or negligently caused a serious and continuing health hazard, or an extensive and continuing health hazard, or an extensive and continuing physical injury to the premises, and you refuse to correct the health hazard or physical injury within seven days after a notice to do so or leave; or
- (3) The lease period has expired; or
- (4) You have violated a lease provision which is so important as to justify eviction.

**YOU MAY HAVE DEFENSES TO SOME OR ALL OF THE GROUNDS FOR EVICTION WHETHER YOUR LEASE IS FOR A SPECIFIC PERIOD OF TIME OR A "MONTH-TO-MONTH" ORAL AGREEMENT. READ THE RESPECTIVE ADVOCATE SECTIONS.**

### **B. ILLEGAL PROCEDURES**

Unless you agree to turn over the premises to the lessor, he must follow the legal procedures described below to obtain possession of the dwelling. These procedures must be followed even if the lessor is legally entitled to evict you. If the lessor uses means other than the prescribed legal procedures, you may be entitled to sue the lessor for triple the amount of the damages you suffer. Such extra-legal procedures which will entitle you to damages include the following:

- (1) Using force to enter the premises or to forcefully remove a tenant;
- (2) Changing locks to prevent a tenant from re-entering the premises;
- (3) Disconnecting utility services to the premises;
- (4) Moving your possessions from the premises without your permission unless the lessor has won an eviction suit against you and has a court order or you have abandoned the premises.

#### C. NOTICES

Except in a case where a lease has expired, a lessor is obligated to serve upon you, either personally or by mail, a notice prior to starting an eviction suit. The following are the types of notices used:

- (1) A seven-day "Notice to Quit" (move) or pay the rent due.
- (2) A seven-day "Notice to Quit" (move) or repair serious defects caused by you or to cease serious health hazards caused by you.
- (3) A notice to "terminate the tenancy." This notice is used to terminate a written or oral lease for an unspecified period, such as a month-to-month lease. It must be served on you at least one rental period prior to the termination date mentioned in the notice. Such a notice may also be used to terminate a lease because of a violation of lease terms.

If you receive one of these notices and don't intend to comply with it, you should immediately seek legal assistance. Read your respective advocate section about your rights.

#### D. SUMMONS AND COMPLAINT

The summons and complaint are the documents by which a lessor begins suit against a tenant. The complaint states the reasons that the lessor feels entitled to evict you. The summons gives you the date when you must appear in court and file an answer. If you fail to appear on the date specified on the summons, a default judgment will be entered against you by the court. When you receive a summons and complaint, it is advisable to obtain legal assistance.

#### E. ANSWER TO COMPLAINT

The answer is the document the tenant files with the court to indicate either his agreement or disagreement with the claims made in the complaint. In addition, it is the document wherein the tenant asserts any rights the tenant has against the lessor, such as rights which may arise because of code violations, breaches of the lease or illegal remedies used by the lessor.

#### F. WRIT OF RESTITUTION

If the court determines that the lessor is entitled to evict you, the judge will order the issuance of a "writ of restitution." Such a writ is served by an authorized court officer who may forcefully remove you and your possessions from the dwelling. Normally there are ten days following the judgment before a writ may be issued.

**If the eviction is for nonpayment of rent**, the writ of restitution will not be issued for at least ten days following the judgment in favor of the lessor. During that ten day period, the tenant is entitled to reinstate the lease by payment of all past due rents and court costs and is also entitled to appeal the judgment.

#### G. PUBLIC HOUSING EVICTIONS

If you live in a dwelling leased from the Ann Arbor Housing Commission, you have a right to a hearing before eviction proceedings are started against you. To obtain such a hearing, you must request it after a notice to quit but prior to receipt of the summons and complaint.

### **XII. COMMON SENSE OBLIGATIONS AND DUTIES OF THE TENANT**

As a tenant you have certain legal duties in the use and enjoyment of your dwelling. In addition, common sense applies in many cases where there may not be an actual "legal" duty.

#### A. LEGAL DUTIES

- (1) Pay rent on time unless lessor has violated some obligation to you which excuses some or all of the rent.
- (2) Do not store combustible liquids in your apartment in a dangerous manner.
- (3) Vacate the premises timely at the end of your lease.

#### B. COMMON SENSE ITEMS

- (1) Promptly report, in writing, if possible, any problems or needed repair.
- (2) Do not remove furniture or fixtures from the units, if it is not yours, without the lessor's written permission.
- (3) Try not to make an unreasonable amount of noise which might disturb your neighbors.
- (4) Do not let water escape from tubs or lavatories.
- (5) Empty trash only into containers provided.
- (6) Park only in designated areas.
- (7) Do not use sharp instruments when defrosting refrigerator.
- (8) Avoid putting foreign materials in drains that will cause clogging.

### **XIII. LEASE ASSIGNMENT AND SUBLETTING**

In most cases, you can sublet your dwelling to another tenant, but you remain liable for the rent for the remainder of the lease if the subtenant fails to make rental payments. Also, you may be liable for damages caused by the subtenant. Accordingly, it is wise to sublet only to a reliable person. If the lessor is agreeable, it may be possible to have the subtenant enter into an agreement with the lessor whereby the subtenant is substituted for you for the remaining period of the lease. In such a case you would not be liable if the new tenant failed to make rental payments or caused damage.

Some leases say you cannot sublet without permission of the lessor but that the lessor's permission "cannot be unreasonably withheld." This clause is valid. Read your advocate sections for information on what is "reasonable."

Some leases say you cannot sublet at all or that the lessor can withhold permission (whether or not "reasonably") or charge a fee. Your advocate sections differ on the validity of such lease clauses.

If you do sublet, it is recommended that both tenant and subtenant read the lease, read the advocate sections of this book and attempt to obtain the lessor's written permission to sublet, if there is any restriction on subletting in the lease. Even if there is no restriction, it is common courtesy to inform the lessor when a new (sub)tenant moves in.

Also, in the interest of avoiding honest misunderstanding, it is recommended that a written agreement be signed between the tenant and subtenant. This agreement should provide for a security deposit and should include the address and commencement and expiration dates of the sublease, monthly rental and security deposit amounts, who will pay utilities and information as to how to contact the tenant and subtenant if they wish to be notified by the lessor in case any questions arise concerning the sublease. It is also recommended that the lessor be notified what forwarding address should be used for the return of the security deposit. If this agreement provides for a security deposit, the security deposit laws must be complied with.

Here are two ways for handling security deposits between tenants and subtenants:

- (1) Subtenant can pay a security deposit directly to the tenant and the subtenant and tenant follow the same rules about security deposit as apply to lessors and tenants;  
or
- (2) By arrangement with a willing lessor, the lessor may return the tenant's security deposit and receive and return the subtenant's security deposit directly.

#### **XIV. YOUR SECURITY DEPOSIT**

Both the lessor and lessee have certain obligations regarding security deposits. Some are mentioned below. If you have trouble getting your security deposit back after you move out, contact legal help. The provisions below apply to all leases of residential dwellings.

- A. Your security deposit by legal definition includes any rent you pay in advance other than for the first month's rent. For example, your last month's rent paid in advance is considered part of your security deposit. This security deposit cannot exceed one and one-half month's rent.

- B. The lessor must give you an address where you can write to him about your security deposit within 14 days of the day you move in.
- C. When you move in, the lessor must also give you two blank copies of an inventory checklist. You must note the condition of the unit and return one copy of the checklist to the lessor within seven days.
- D. You must notify your lessor in writing within four days after the termination of your occupancy (i.e., in most cases, the end of your lease: see your advocacy sections) of a forwarding address where you may be reached or where you may receive mail. If you fail to do this, the lessor is not obligated to give you an itemized list of damages claimed.
- E. Money may be deducted from your security deposit for the following reasons **only**:
  - (1) For actual damages to the unit which were the direct result of conduct not reasonably expected in the normal course of living there. Deductions cannot be made for normal wear and tear of the apartment.
  - (2) For unpaid rent.
  - (3) For unpaid utility bills.

**YOU MAY HAVE DEFENSES. SEE YOUR ADVOCATE SECTIONS.**

- F. Within 30 days after the termination of your occupancy (i.e., in most cases, the end of your lease: see your advocate sections), the lessor must mail you a list of damages, the cost of repairs and the reasons why he intends to deduct money from your security deposit. He must send you a check for the amount he claims to which you are entitled.
- G. If you have given your lessor the forwarding address required in paragraph D and your lessor does not send this information within 30 days after the termination of your occupancy, he must send you the entire deposit.
- H. If you do not agree with the damages claimed, you must notify your lessor by **mail** within seven days; otherwise, you forfeit the amount claimed.
- I. If you have properly notified your lessor of your forwarding address and properly objected to the damages claimed, the lessor must either:
  - (1) Return the balance of the security deposit to you; or
  - (2) Start suit against you within 45 days after the termination of your occupancy. (This is not required in most cases when the lessor is only claiming money for unpaid rent. See your respective advocate sections.) Or
  - (3) Agree with you in writing about the amount the landlord will retain and the amount he will return to you.

- J. If you do not properly notify your lessor of your forwarding address or you do not object to the damages claimed within the legal time limits, you may not have waived your rights to some or all of your security deposit. See your advocate sections.
- K. The lessor is not required to comply with the foregoing procedures in the case of a non-refundable cleaning fee.

## **XV. LIABILITY FOR DAMAGES**

Either party may be liable to the other for negligence or breach of contract causing personal injury or damage to property, in most cases, even if the lease says otherwise. Unauthorized alterations to the dwelling may make the tenant liable for damages.

Neither party is liable to the other for an "act of God" (such as lightning).

The lessor might possibly be liable for injury or burglary by a third person, but only if the lessor was negligent, as in not providing adequate locks or lighting, and the tenant was not negligent, as in leaving the door unlocked. Read your advocate sections for further information.

Normally, a lessor's insurance does not protect the tenant's property unless damage is caused by the lessor. It is recommended that the tenant obtain insurance to protect the tenant's property and to protect the tenant from damage claims for accidental injury to the property of others.

## **XVI. SOME EXAMPLES OF CITY CODE REQUIREMENTS THAT MAY APPLY TO YOUR DWELLING**

### **A. MINIMUM SPACE AND FACILITIES**

The total floor area of dwelling (excluding bathrooms, storage areas, closets, corridors and laundry facilities) must be at least 225 square feet.

The total floor area of each dwelling (excluding the same areas as above) must be at least 150 square feet for the first occupant and 100 additional square feet for each additional occupant.

At least one common room in a dwelling must have a minimum floor area of 120-150 square feet, dependent on the number of bedrooms. Kitchens and dining areas, if provided as separate areas, shall have a minimum habitable area of 35 and 50 feet respectively. Bedrooms in a dwelling having two or more rooms must have a total floor area of at least 70 square feet when one person sleeps in that room or a minimum floor area of 50 square feet per person when more than one person sleeps in that room. Children under 12 must have at least 40 square feet of floor area per person when two or more sleep in the room.

Every habitable room in a dwelling (excluding bathrooms, closets, etc.) must have a ceiling height of at least seven feet. In habitable basements, at least 80% of every room must have a minimum ceiling height of 6 feet 8 inches. In rooms with sloped ceilings, at least 50% of the room must have a ceiling height of 7 feet.

No dwelling which has two or more bedrooms may be arranged so that access to the bathroom for occupants of one bedroom may be had only by passing through another bedroom, nor can access to one bedroom be through a bathroom or other bedroom.

Food may not be prepared in any room used for sleeping purposes, except in efficiencies.

Efficiency apartments must have a minimum floor area of 150 square feet for one occupant. For each additional occupant an additional 100 square feet of floor space must be provided.

Kitchenettes in an efficiency apartment must be at least three feet by five feet in size and must be accessible from the living room.

Unless specifically reviewed and approved, a cellar (a room which is underground where the distance from the adjoining ground to the ceiling is less than the distance from the adjoining ground to the floor) may not be used as a habitable dwelling, although it may be used for recreational purposes.

## B. EGRESS

All parts of multiple dwellings must have access to two separate means of egress. Both must be accessible to all occupants without passing through one to get to the other or passing through a private room or apartment.

Of the two means of egress mentioned, one may be a fire escape, if it is maintained in a safe condition. The escape must be accessible to all occupants through a door or casement window at least either 27 inches wide X 47 inches high or 22 inches wide by 53 inches high (those exits serving only one unit may be 22 inches wide by 47 inches high). These doors or windows must open in the direction of egress.

Multiple dwellings with more than 15 rooms of sleeping accommodations for more than 30 persons must have all means of egress designated by electric EXIT signs with letters at least four inches in height.

The primary entrance of a dwelling must have exterior lighting. Dwellings with multiple entrances must have at least 2 entrances lighted.

Automatic entrance lighting is required for buildings with 4 or more units.

Storage within five feet of gas or oil fired heating devices is prohibited.

Storage in exitways is prohibited.

There are minimum dimension requirements for exitways.

#### C. LIGHT AND VENTILATION

Every habitable room must have at least one window or skylight opening directly to the outdoors (mechanical ventilation may be substituted in bathrooms.)

Minimum total window area for every habitable room must be at least 8 percent of the floor area of such a room.

Total openable window area must be at least 50 percent of the minimum allowable window area.

In kitchens, the window space requirements may be reduced or waived if there is adequate artificial lighting.

Every habitable room must have one window or skylight which can be easily opened or other device capable of ventilating the room.

Window and outside door screens must be installed by the owner to permit adequate ventilation. These screens must be installed by the owner by May 1 and may not be removed prior to September 30. All basement windows must be screened, if required for ventilation.

#### D. ELECTRICAL SERVICE

Every habitable room in a dwelling must contain at least two separate electrical outlets, spaced for convenience, and one switched light fixture or switched outlet.

Rooms not considered habitable (bathroom, laundry rooms, etc.) must be provided with fixtures to provide sufficient light.

Bathrooms must be provided, in most cases, with one convenience outlet, and rooms not provided with ceiling light fixtures must be provided with at least one convenience outlet or side wall lighting outlet controlled by a wall switch.

Electrical cords may not be allowed to run under rugs, through doorways, stapled to wooden baseboards or door casings or through holes in partitions or floors. Cords up to 6 feet long are allowed if they are the proper size for the devices they serve.

Wiring and fusing must be maintained in safe conditions at all times.

Smoke detectors or an automatic fire alarms system must be provided.

#### E. HEATING AND INSULATION

Heating facilities must be adequately installed and properly maintained at all times.

Facilities must be capable of heating all habitable rooms, including bathrooms, to 68 degrees F. when the temperature outdoors is as low as 10 degrees below zero.

When owners use temporary heating devices to maintain the required temperature, they must pay a prorated share of the heating bill.

Heating units in multiple dwellings must be separately enclosed.

Windows and cracks must be caulked. Unheated attics or top stories must be insulated to R-19 if insulated before 1985 and R-30 if insulated later. These winterization requirements do not apply in several instances, one of which is if the landlord pays all the heating bills without charge to the tenants.

#### F. PLUMBING

Every plumbing fixture must be properly installed and in good working condition.

Every dwelling must have a working kitchen sink equipped with sufficient hot and cold water.

All dwellings must be provided with a bathroom within the dwelling which contains a flush toilet, a sink and a bathtub or shower in good condition. The sink or shower may be outside the bathroom but must be adjacent to it.

Sinks and bathtubs or showers must be equipped with hot and cold water.

In rooming houses, there must be at least one bathroom for each eight persons. The facility must be accessible from a common hall or corridor.

Water heating facilities must be properly installed and maintained in good working condition.

Water heating facilities must be capable of providing enough water heated to 110 degrees to provide for all sinks, tubs and showers.

#### G. SANITATION

No dwelling is to be occupied by new tenants unless it is clean, sanitary and fit for human occupancy.

The owner of the premises is responsible for maintaining those premises in a clean condition, except for that portion of the premises which the occupant controls.

The occupant must dispose of trash or garbage in covered containers. These containers must be provided by the owner. Garbage chutes are prohibited.

All facilities required by law must function safely and must be kept in good repair. Facilities, equipment and utilities cannot be stopped or discontinued when the dwelling is occupied except for temporary repairs or during temporary emergencies.

All parts of the dwelling, including heating, lighting, ventilation and plumbing, must be kept in good repair by the owner.

#### H. GENERAL MAINTENANCE

Foundations, floors, ceilings, walls and roofs must be reasonably weather-tight and rodent proof, capable of affording privacy and in good repair.

Roofs must not leak and rain water must have some sanitary means of drainage.

Exterior wood surfaces must be kept from deterioration by paint or other protective treatments.

Windows and doors must always be reasonably weather-tight and rodent proof and in good working condition and repair.

Stairs, porches and all other attached features must be kept in sound condition.

#### I. SECURITY

All exterior windows and doors must have locking devices. Double hung windows reasonably accessible from the exterior must have pin or vent locks.

Sliding windows and doors must have a rod that can be used to prevent them from being opened.

Unless already equipped with 5/8 inch or larger deadbolt, all swinging doors accessible from the outside must have a one inch deadbolt.

Every principal entrance door must have a window, side light or wide angle peephole viewer.

**The above is a partial list of code requirements. They are subject to change or variance. See your advocate section.**

Section 8:530 of the Housing Code (Chapter 105) of the Code of the City of Ann Arbor

8:530 ENTRY TO SHOW PREMISES AND TIME FOR RENTAL AGREEMENT

- (1) Notwithstanding any other provisions of this Chapter, a landlord of residential premises shall not:
  - (a) enter the leased premises for the purpose of showing the premises to prospective tenants until 70 days of the current lease period has passed; or
  - (b) enter into an agreement to rent the leased premises to another tenant for a subsequent lease period until 70 days of the current lease period has passed.
- (2) This section does not apply under any of the following conditions:
  - (a) the entry is for the purpose of subletting;
  - (b) the current lease period is less than nine (9) months in its entirety;
  - (c) a summons and complaint to recover possession of the premises has been filed and served on the current tenant in accordance with all laws and rules applicable to summary proceedings to recover possession of premises;
  - (d) the tenant, of his or her own will, has terminated his or her occupancy of the leased premises and his or her right under the lease to possession of the premises.
- (3) Except as otherwise provided in this section, at the time of entering into a written lease agreement a landlord shall provide to each tenant a copy of this entire code section separate from the written lease agreement, until such time that this ordinance is incorporated into the "Rights and Duties of Tenants" booklet.
- (4) If there is no written lease, then the landlord shall provide a copy of this entire code section, upon which is written the term of the current unwritten lease, to each tenant, until such time that this ordinance is incorporated into the "Rights and Duties of Tenants" booklet.

This section is written by authors appointed by the City.

- (5) A violation of this section shall be a civil infraction punishable by a civil fine of up to \$1,000.00, plus costs and all other remedies available by statute.

## **XVII. HELPFUL NUMBERS IN ALPHABETICAL ORDER**

Ann Arbor Housing Bureau 100 North Fifth Avenue	794-6267
Ann Arbor Housing Commission 727 Miller Avenue	794-6720
Ann Arbor Human Rights Office 220 E. Huron	794-6120
Legal Services of South Central Michigan 420 North Fourth Avenue	665-6181
Michigan Bar Referral Service	1-800-968-0738
Student Legal Services 530 S. State	763-9920
University of Michigan Clinical Law Program 801 Monroe Street	763-4319
University of Michigan Off-Campus Housing and Dispute Resolution Services	763-3164
Washtenaw County Bar Association	996-3229
For information on Lead House Paint, please call Or visit: <a href="http://www.hud.gov/offices/lead">www.hud.gov/offices/lead</a>	1-800-424-5323



## WELCOME TO THE CITY OF ANN ARBOR!

The City of Ann Arbor requires that all Ann Arbor residents participate in the city's recycling program. We need your assistance to meet our city-wide goal of 60% waste diversion.

**RECYCLING HOW-TOs** Place all containers and papers together into the same recycling carts. Look for specifics on the recycling cart lid and online at [www.a2gov.org/recycle](http://www.a2gov.org/recycle).

- **Mixed papers-newspapers, magazines, catalogs, junk mail, office paper, flattened cardboard, cereal boxes and clean frozen food boxes.** Place quantities of shredded paper-if more than a few sheets/week-in see-through plastic bags.
  - **All clean plastic bottles and tubs numbered 1, 2, 4, 5, 6, and 7** (such as yogurt tubs, plastic produce containers, plastic cups, and microwavable frozen food trays) without their plastic lids.
  - **Milk cartons, juice boxes, metal cans and lids, glass bottles and jars, and scrap metal** (up to 1 cubic foot, 20 pounds per piece).
  - **Bulky plastic items**, such as lawn chairs, laundry baskets, and buckets. Please cut bulky items into pieces, if needed, to avoid being wedged and stuck inside the cart.
- Recycling carts and questions are handled by Recycle Ann Arbor, 662-6288, [www.recycleannarbor.org](http://www.recycleannarbor.org).**

## **DUMPSTER TRASH COLLECTION**

Large apartment buildings usually use dumpsters for trash. Recyclables are generally collected in large wheeled carts parked near the dumpster. Do not block the dumpster with vehicles or trash. You can be ticketed and towed.

## **CURBSIDE COLLECTION**

Houses and smaller apartment buildings place carts on the curb before 7 a.m. for weekly collection.

- **ALL TRASH must fit into the cart and recyclables in the recycling carts** including all flattened cardboard
- Broken bags, loose trash, furniture, etc. must be cleaned up by the occupant or be subject to Clean Community fines.
- Solid waste and recycling carts must be stored at the side or rear of the dwelling and not placed at the curb more than 24 hours ahead of time. Empty carts must be removed from the curb by Noon the day after collection.
- Your weekly collection day is listed on the city's web site (see below).
- You must make your own arrangements to dispose of large items, furniture and appliances. These will not be picked up automatically.

### **SET PREPARED WASTE AT CURBSIDE BEFORE 7 A.M. ON YOUR WEEKLY COLLECTION DAY:**

Map available on-line [www.a2gov.org/recycle](http://www.a2gov.org/recycle) or 994-2807.

\_\_\_ Mon \_\_\_ Tues \_\_\_ Wed \_\_\_ Thurs \_\_\_ Fri

Printed on recycled paper. July 2012.

If the city cleans up  
your messy property,

**YOU**

are charged with a  
minimum \$100 fine!

- √ Place all recyclables in recycling bins and put trash in the A2 trash carts.
- √ Keep your property area neat. Pick up all litter.
- √ Don't abandon furniture at the curb or block dumpsters.
- √ Store all carts at side or rear of building except on collection day.

*Help Ann Arbor maintain a Clean Community.  
These community standards are enforced by  
Ann Arbor Police.*

Community Standards (734) 794-6942

**BULKY ITEMS DISPOSAL** fact sheet at [a2gov.org/recycle](http://a2gov.org/recycle)

Residents and businesses must make their own arrangements to properly dispose of bulky items, such as sofas, appliances, mattresses, TVs, computers, rolls of carpeting, furniture, plus surplus trash that does not fit into the A2 Carts.

- Abandoned bulky wastes are subject to fines.
- Waste items are accepted for-fee disposal at the Drop-Off Station (see DOS information below).
- Private haulers are listed in the print & online "yellow pages" under "Rubbish & Garbage Removal" or similar terms.
- Some haulers are listed as WasteKnot Partners with Washtenaw County (see below).
- *The listing of these haulers is not and does not imply an endorsement of their services or products by the City of Ann Arbor or by any City of Ann Arbor official or employee.*

**CONTACTS & SERVICES**

**CITY OF ANN ARBOR Public Services/solid waste.**

994-7336 [www.a2gov.org/recycle](http://www.a2gov.org/recycle) Customer Service

Coordinates trash & compost carts

**Litter Problems** Community Standards 794-6942

**Report problems online using the Citizen Request System** at [www.a2gov.org](http://www.a2gov.org)

**RECYCLE ANN ARBOR** [www.recycleannarbor.org](http://www.recycleannarbor.org) 662-6288

For info on recycling, recycling carts. Also operates a

**Drop-Off Station** at 2950 E. Ellsworth Road

Call for hours. \$3 entry fee. Accepts recyclables, electronics, wastes, etc. RAA also operates the **ReUse Center, 2420 S.Industrial** for items to donate or buy.

**WASHTENAW COUNTY** <http://recycle.eWashtenaw.org>

222-6874 "Trash to Treasures" online guide, Home Toxics Drop-Off Center, and list of WasteKnot business partners.

**UM RECYCLING** [www.recycle.umich.edu](http://www.recycle.umich.edu)

This section is written by tenant advocates. They are attorneys who have agreed to present a tenant's point of view on your rights and duties.

## **I. INTRODUCTION**

Regardless of whether your landlord is a friendly, likable person or an intimidating one, you should always remember that you have a right to decent living conditions and fair treatment with respect to your legal rights.

**YOU HAVE FEWER RIGHTS THAN YOU NEED. YOU HAVE MORE RIGHTS THAN YOU KNOW.**

Read this green section for tenants lawyers' views of your rights. Consult your lawyer, legal aid society or tenants union lawyers whenever you have a specific legal problem.

## **II. YOUR RELATIONS WITH YOUR LANDLORD**

Landlords usually know much more about landlord/tenant law and economics than tenants. This is because landlords are in business and need to know the limits of their rights and obligations.

Tenants, on the other hand, are often uninformed or misinformed about their rights and duties. A survey conducted for the City of Ann Arbor by the Institute for Social Research in 1976 showed that over 60 percent of Ann Arbor tenants were unable to answer each of five elementary questions on tenants' rights.

When you have a problem or potential problem with your landlord, it therefore makes good sense, whenever possible, to:

**CONTACT A TENANT ADVISOR, SUCH AS A LAWYER OR TENANTS UNION REPRESENTATIVE, BEFORE YOU ENTER INTO DISCUSSIONS WITH YOUR LANDLORD.**

You have nothing to lose by contacting a tenant advisor and this advisor may be able to prevent you from making costly mistakes, such as accidentally waiving rights or settling your dispute on disadvantageous terms, when you do talk to your landlord.

### **Bargaining with Your Landlord for Your Rights**

Occasionally as a tenant you will have to bargain with your landlord to enforce your legal rights. Here are some things to remember which may help.

- (1) It is usually easier to bargain when you have the formal or informal help of other tenants from your dwelling or building or a tenants union who want to help bargain for the same rights.
- (2) You are paying rent, usually a lot of rent, for your dwelling. When you buy a product from a store, you want it to be free from defects and you expect the store to treat you fairly. You also have the right to a dwelling free of defects and to be treated fairly by your landlord.

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- (3) A landlord will often try to use an economic justification for his bargaining position on your legal rights. In other words, a landlord will often say his/her allegedly low profits are the reason for the unconscionably high rent, lack of sufficient repairs or for keeping your security deposit on questionable grounds.

In order to deal with this kind of argument, you should know that a landlord makes money in many ways, most of which he/she will not bring up on an argument. Here are some of the ways:

- (a) **Appreciation:** A landlord makes money on the rise in value of his/her building. In Ann Arbor, property values can appreciate as much as 10-15 percent each year. On a \$30,000 building, this would be a profit of \$3,000 to \$4,500 in a single year. If the landlord's downpayment was \$6,000, the profit by appreciation alone may be 50-75 percent of the landlord's investment in a year.
- (b) **Building:** Unless your landlord has purchased your building for cash, a very rare occurrence, part of your rent dollar goes to pay your landlord's mortgage, so that the tenant buys the building for the landlord, the same way as your rent dollar helps the landlord buy clothes or a new car. When the landlord sells the building, he/she owns the part he/she paid for with the down payment and the part you bought for him/her with the rent.
- (c) **Cash flow profit:** This is the profit the landlord makes each month. It is the rent for that month minus the costs (for the plumber, the mortgage, the taxes, etc.) of each month. This is the only profit most tenants know the landlords earn, but the other profits are often much larger.
- (d) Landlords sometimes may claim that they have a negative cash flow. If this is their attempted justification for depriving you of your legal rights, you should (a) explain that, even if true, this is not lawful justification for their actions; (b) ask about their other profits and the level of those profits; and (c) say you would like to see proof of their other profits. (Remember, appreciation does not get realized until the building is sold.)
- (e) **Depreciation allowance:** A landlord is given numerous tax breaks. The most important is the one that allows the landlord to claim a deduction to the Internal Revenue Service as if he were losing money by the depreciation of his or her building when the market value is, in fact, going up. This pretend "loss" is offset against the landlord's other income. The landlord usually saves about half the taxes on the income offset. That "tax shelter" is a profit the landlord gets from his income before taxes are applied. Other breaks also exist.

When your landlord makes economic arguments trying to justify a deprivation of your legal rights, use ones of your own.

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### **III. DISCRIMINATION**

If a landlord won't rent to you because of your race, color, religion, sex, sexual preference, welfare status, age, handicap, marital status or educational status, see a tenant lawyer or tenants union immediately.

One way of preventing illegal discrimination (similar to that used in race discrimination cases in the sale of real estate when a white person would buy the house for a black friend) may be to have a friend move in and sublet from the friend. It is unlawful for a landlord to evict you in retaliation for subletting to prevent unlawful discrimination. However, the tenant should be sure there's illegal discrimination and should contact a tenant lawyer before he/she tries this.

There are special rules for one- and two-family dwellings, if the landlord lives there, and for dwellings solely for older people, for members of only one sex and for members of only one religion. Some discrimination in these instances is allowed.

### **IV. THE LEASE OR RENTAL AGREEMENT**

The white section of this booklet contains information on this area.

It should be emphasized, however, that leases can be written by tenants or landlords, or freely negotiated. In communities with housing shortages (like Ann Arbor), they are almost always written by the landlord or the landlord's attorney. Such leases are often more than a lawful agreement. They often contain clauses that are misleading or unenforceable to intimidate tenants who don't know the law.

Landlords don't usually try to enforce the invalid clauses in court, but show them to the tenant when there's a dispute to scare the tenant into giving up the dispute or giving up some of the tenant's rights. These invalid clauses are discussed below.

### **V. UNENFORCEABLE LEASE CLAUSES**

There is an unlimited variety of ways in which lease clauses can be written to make them misleading and confusing to tenants. Since there is such a variety of misleading clauses, a good rule of thumb is this:

**IF YOU THINK THAT A LEASE CLAUSE IS UNFAIR, IT MAY ALSO BE UNENFORCEABLE. CHECK WITH A TENANT LAWYER.**

Even though a clause is unenforceable, a landlord may try to use such a clause to convince you to give up a dispute with him or to give up rights of yours. For example, a tenant is less likely to start a lawsuit to obtain repairs or withhold rent if that tenant believes he/she has waived the right to a jury trial or must pay the landlord's attorney fees.

Read your lease with a grain of salt and a dash of pepper.

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Another point: If you spot illegal and unenforceable clauses in a lease before you sign it, it may be unwise to argue with the landlord who may then think you are a trouble-maker and refuse to rent to you.

TENANT LAWYERS USUAL ADVICE IS: IF YOU WANT THE PLACE, SIGN THE LEASE AND MOVE IN, IF THE RENT IS ACCEPTABLE. IF A LEASE CLAUSE SEEMS UNFAIR AND IS BEING USED AGAINST YOU, SEE A TENANTS LAWYER OR TENANTS UNION FOR ADVICE AND INFORMATION.

Once in your dwelling, if you want to bargain about lease terms, it may still be difficult to work by yourself. Tenants unions and collectively bargaining with other tenants of the same landlord may help you, however, and you should keep them in mind.

## **VI. IF YOU PAY A DEPOSIT AND DECIDE NOT TO MOVE IN**

If the place was not ready when it was supposed to be, you should be entitled to all of your deposit back and maybe more.

If you change your mind through no fault of the landlord, you may have to pay part or all of the deposit to the landlord. Look to your lawyer and not to your lease for what your rights are here. If the landlord rerents the place immediately, you should get the entire deposit back minus a few dollars fee. You should also be permitted to sublet the place for the landlord if you want to and not lose any of your deposit.

## **VII. THE CONDITION AND UPKEEP OF YOUR DWELLING**

### **CLEANING**

You have a right to a clean and sanitary apartment when you move in. This is part of what you pay rent for.

"Cleaning waivers" are clauses in leases which supposedly give up this right. They may or may not be valid. "Cleaning waivers," coupled with "nonrefundable cleaning fees," seem particularly unfair.

If your place is filthy when you move in, you should not complain until you move in; then complain, take photos, do the cleaning, if the landlord won't, and negotiate for compensation for your work. See a tenant lawyer or tenants union for help, if you need it.

### **REPAIR**

If your place needs repair, you are almost always entitled to both the repairs and the money to compensate you for the inconvenience and other damages caused by the period of disrepair, unless your inconvenience was trivial. If it was severe, you may be entitled to large recoveries.

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## CERTIFICATE OF COMPLIANCE

The landlord must have and show you one on request. But it is not conclusive proof that the place is in good repair. Your own observation is usually more accurate proof and is acceptable in court.

## VIII. WITHHOLDING RENT

If your landlord will not make needed repairs when requested to do so, by far the most effective way to get the landlord to repair is to **WITHHOLD THE RENT UNTIL THE REPAIR IS MADE**. Then, negotiate compensation of the part of the rent "excused" for the inconvenience you suffered due to the lack of repair. (EXAMPLE: The refrigerator was broken for a month and you had to eat out. Negotiate for the extra price you paid for meals.) If you find that other tenants in your dwelling and/or building are experiencing similar hardships due to the landlord's lack of repair, tenant lawyers recommend that you negotiate as a group in order to maximize your bargaining strength.

Rent withholding is quite legal, covered by both statute and appellate case law. If you have been unsuccessful in negotiating an acceptable settlement, your landlord will most likely take you to court in order to recover what he/she claims is the rent not "excused" due to the lack of repair. With this in mind, it is recommended that, in addition to following the procedures outlined in Section VIII(b) of the white section of this booklet, you consult with your lawyer or tenant advocate. (NOTE: In some cases, this person's assistance in contacting your landlord and/or city inspectors may resolve your problem without further court proceedings.)

The court may "excuse" part of the rent that you have withheld, on rare occasions may "excuse" all of the rent, and may even order the landlord to pay you money in excess of the rent (for example, if lack of heat caused you to get sick and be hospitalized or if there were defects so serious, multiple or prolonged that your damages were severe).

Since the court may order that you pay some or all of the rents you have withheld, it is recommended, although not required, that you set up a separate rent fund (i.e., "escrow account") so that the money will be available when and if payment is required. (Your own bank or credit union will usually be the best place to start an escrow account. No special procedures are required; just set up a separate savings or checking account and begin depositing your rent money there each month.) During the course of the court proceedings, the judge may require that you deposit some of your withheld rent in a COURT escrow account until your case is tried or settled. It is not required that you deposit your rents in the CITY escrow account. In fact, tenant lawyers advise never to use the CITY escrow account, since the landlord can sometimes get the money out after the repair is made without compensating you for your inconvenience or other damages.

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## **IX. SUING YOUR LANDLORD FOR REPAIRS**

You can sue in small claims court yourself for damages up to \$1,500 or in District Court or Circuit Court for damages up to \$10,000 or over \$10,000, respectively. Circuit Court can grant an injunction against your landlord or put the building in receivership if the landlord won't repair. Judges usually award less money to tenants than juries do, so ask for a jury trial and pay the jury fee on the first court date. The jury fee in District Court is \$30.

## **X. THE TENANT'S RIGHT TO PRIVACY**

The law in this area is cloudy. Your right to privacy depends not only on your lease, but how it was negotiated, whether it is unconscionable, the landlord's motive for entry and numerous other factors. Tenant lawyer authors have been virtually 100 percent successful in preventing landlord retaliation for tenants' insistence on reasonable privacy.

Unless your landlord is your close friend and you feel fine about his/her entry without permission, tenant lawyers usually urge tenants to:

- (1) Insist on appointments at your mutual convenience for entry by landlord, repair persons, city inspectors.
- (2) Be reasonable in allowing reasonable entry by appointment for reasonable purposes.
- (3) Peaceably but firmly resist invasions of your privacy. Tell the landlord, "This is my home. It is only your investment. You can't come in now, but how about coming next Tuesday?" Then negotiate a reasonable time. Show them this book.
- (4) If there is a catastrophe (such as fire or flood), do again what seems reasonable. This may often call for open and free entry to your place by the landlord or even strangers. If you are unreasonable at such times, you may incur very heavy liability for damages to your landlord or other community members which you may have caused.
- (5) See a tenant union or attorney if your landlord, repair person or city inspector enters without permission. You may be able to recover damages.

## **XI. EVICTION PROCEDURE**

No matter what excuse your landlord uses to try to evict you, you may have one or many defenses or countersuits. Here are just a few defenses:

- (1) You are lawfully withholding rent.
- (2) Your landlord is illegally attempting to evict in retaliation for your complaining to authorities to enforce a right (such as right to repairs) or because you are lawfully attempting to secure rights under the lease or laws of the state or of the United States (as through the political process).
- (3) You haven't breached the lease, or your breach is not material, is waived by the landlord's conduct, or doesn't give rise to eviction.

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- (4) Your lease is over but your landlord refuses to renew in retaliation for your lawful acts.

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It is illegal for a landlord to try to evict you or shut off utilities to get you to move without a court order. It is also unlawful for your landlord to try to evict you for attempting to obtain repairs or for doing any other lawful acts.

To lawfully evict you, a landlord must usually give you an "eviction notice" and then "start suit," i.e., give you a "Summons" to go to court. You can go to court and, if you don't have a lawyer, you can usually get a week's extension while you get legal aid or a private lawyer. The lawyer can file a "countersuit" and ask for a jury trial. Most cases defended by lawyers are settled. Rent reductions, repairs, extensions of time for payment are commonplace. Every case is different, so you should not let the landlord scare you, but see your lawyer for your best procedure.

You should enforce your rights to repair against landlords. Seek legal help to prevent retaliatory attempts at eviction.

## **XII. LEASE ASSIGNMENT AND SUBLETTING**

If your landlord won't let you sublet or charges you a fee, see your tenant union or lawyer immediately. They can almost always help you. Unreasonable restrictions on subletting are likely to be an "unreasonable restraint on alienation of property," frowned upon by the courts.

## **XIII. YOUR SECURITY DEPOSIT**

Follow the steps outlined in the white section to get your security deposit returned to you.

Some important points to remember are:

- (1) You can only lawfully be charged for damage resulting from conduct "not reasonably to be expected in the course of a tenancy."
- (2) You should be charged the market value of any damaged items at the time of the damage, not the cost of a new item. For example, if you unreasonably break a chair worth \$5 when you broke it, you should be charged \$5, not the cost of a new \$30 chair.
- (3) If you paid a cleaning fee, you should not be charged twice for the same cleaning by having additional money taken from the security deposit.
- (4) You can use small claims court, a quick and simple procedure requiring no attorney, to sue to recover improperly withheld security deposit money.
- (5) You may be able to sue for twice the amount improperly withheld if you have disputed the amount improperly withheld in accordance with the procedures outlined in the white section and your landlord has failed to sue you to retain the disputed amount. See a tenant advisor about this.
- (6) If you do not follow all the procedures outlined in the white section, you may still have a right to the return of improperly withheld amounts. See a tenant advisor.

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#### **XIV. LIABILITY FOR DAMAGES**

In the event you think you have a claim against your landlord for damages caused by his/her negligence, you can sue with or without legal help. Small claims court for cases under \$1,500 is easy to use without a lawyer. It is located at the County Courthouse, 101 East Huron Street.

In addition to code violations, some examples of successful tenant suits against landlords include:

- (1) Falling on ice the landlord negligently failed to clear.
- (2) Being robbed or raped or burglarized when landlord security is unreasonably poor.
- (3) A tire is ruined by a pothole left in a driveway.
- (4) You fall through rotted stairs and break your ankle.

In larger cases, you should seek legal counsel. Often a lawyer will represent you without payment, except part of the verdict or settlement if you win.

If your landlord sues you or threatens to sue for damages, you should seek legal help.

Landlords reading this section should take care to maximize building security, ice clearing and other maintenance that could cause damage or injury.

#### **XV. YOUR RIGHT TO A FAIR RENT**

You have no right to fair rent in Ann Arbor.

However, you have the right to attempt to secure new rights. You also have a few very limited rights now as to rent level.

- (1) The Michigan Consumer Protection Act says that rent cannot be grossly out of proportion to rents charged by other landlords. This doesn't help you if they all charge too much, but it can help if your landlord is worse than most.
- (2) Your rent cannot be raised in retaliation for your withholding rent or other lawful acts arising out of the tenancy. If your landlord attempts to raise the rent in retaliation for your lawful acts, see a tenant lawyer or advocate for advice.

**THE THREE SECTIONS OF THIS BOOKLET ON THE RIGHTS AND DUTIES OF TENANTS ARE THE OPINIONS OF THEIR AUTHORS. IF YOU HAVE ANY QUESTIONS CONCERNING YOUR RIGHTS AND DUTIES AS A TENANT, CONSULT YOUR LAWYER, FREE LEGAL AID SOCIETY, OR TENANTS UNION LAWYER.**

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PLEASE READ THE WHITE PAGES OF THIS BOOKLET PRIOR TO READING THIS SECTION.

## **I. INTRODUCTION**

It is the opinion of the landlord advocate authors that most problems may be resolved between lessors and tenants without the use of courts or attorneys. Only when there is a problem that is not resolved satisfactorily between lessor and tenant should either party resort to legal action.

In this section of the book, the advocate authors are allowed to present their opinions regarding different interpretations in the various sections. This section will represent the opinions of the attorneys representing the landlords in the preparation of this book.

## **II. YOUR RELATIONS WITH YOUR LESSOR**

Both lessors and tenants stand to gain from a good relationship where there is mutual respect and neither party tries to take advantage of the other. Most lessors are honest and competent and try to treat tenants fairly. As in most cases, the bad reputation is generated by the few. Do not assume your lessor is out to cheat you; give them a chance to solve the problems. Most problems are more easily and quickly solved before they end up in court. If you are unable to reach a settlement with the lessor, then all of your legal rights and remedies are still available.

## **III. DISCRIMINATION**

See the white section.

## **IV. THE LEASE OR RENTAL AGREEMENT**

See the white section.

## **V. UNENFORCEABLE LEASE CLAUSES**

As indicated in the white section of this booklet, "some clauses contained in some leases are not enforceable." While some clauses may be unenforceable, most lease clauses are enforceable.

The question of the enforceability of lease clauses is a very serious and technical matter requiring considerable legal expertise. For this reason, it is very important that any decision to ignore certain provisions of a lease as being unenforceable be based upon a legal opinion to that effect.

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## **VI. IF YOU PAY A DEPOSIT AND DECIDE NOT TO MOVE IN**

As mentioned in the white section and in other parts of these comments, a lease is a contract. In addition, some applications and other documents signed in anticipation of entering into a lease are also contracts enforceable under the laws of the State of Michigan. Most documents, such as applications, deposit agreements and lease agreements, set forth what will happen to a deposit that is made on a rental unit in the event you decide not to move into the unit. Please carefully read the documents that you execute prior to signing.

## **VII. THE CONDITION AND UPKEEP OF YOUR DWELLING**

### **A. YOUR RIGHT TO A CLEAN APARTMENT ON ARRIVAL**

You do have the right to a clean apartment when you move in just as you have a responsibility to leave a clean apartment when you leave. Problems sometimes arise when a tenant fails to leave a clean apartment and even fails to vacate when obligated to do so by lease. If you wish to occupy the premises before it is clean, you may waive your rights to a clean apartment. It is recommended that any agreement regarding cleaning be put in writing prior to taking occupancy so there will be no misunderstanding.

### **B. YOUR RIGHT TO HAVE THE LESSOR REPAIR**

Your lessor is limited as to his right to enter your apartment. Therefore, you must notify your lessor of needed repairs. Give your lessor reasonable time to make the needed repairs. What constitutes a reasonable time depends on the type of repair. If you are unable to obtain the needed repairs from the lessor, consult the white section as to your rights and remedies.

### **C. THE CERTIFICATE OF COMPLIANCE**

Your lessor's certificate is valid until it is actively revoked by the City of Ann Arbor. The fact that there are code violations does not automatically revoke the certificate. The City of Ann Arbor may revoke the certificate if the lessor does not make the needed repairs within a time considered reasonable by the City.

## **VIII. WITHHOLDING RENT**

As set forth in the text of the booklet, you do, under Michigan law, have the right to withhold rent. This is an extremely strong tool and should be used by you only as a "last resort." The withholding of rent nearly always requires that your lessor start a lawsuit in District Court. This generally involves the payment of fees to an attorney, which often reduces the amount of money available for "settlement" between the parties. Please make every attempt short of withholding your rent to remedy your problem with your lessor.

## **IX. SUING THE LESSOR TO OBTAIN REPAIRS**

Proper repairs can be made much quicker and with less inconvenience when the

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tenant notifies the lessor and the details are worked out between the two of them. The courts should be used after direct discussions have failed and the proper repairs have not been made.

## **X. RIGHT TO ENTER**

The lessor's right to enter your dwelling is a matter of contract rights. You should consult your lease to determine what rights your lessor has. If your lease is silent as to your lessor's rights to enter, then your lessor may only enter with your permission or in the event of emergency to protect property or life.

It is strongly recommended that the lessor respect the tenant's right to privacy and that the tenant cooperate so the lessor can make needed repairs and show the apartment to prospective tenants.

## **XI. EVICTION PROCEDURE**

The eviction procedure is established by state law and is set forth in detail in the white pages. It is quite formal and established procedures must be followed. You will generally receive a notice from your lessor if there is a problem. The notice will be entitled "Notice to Terminate" or "Notice to Quit." The Notice to Quit requires that you pay rent or take some other action, which action will be specified on the notice within seven days of receipt by you or the lessor will have the right to start a lawsuit against you. The Notice to Terminate, often referred to as a "30-Day Notice," informs you that your lessor feels that you have been violating the terms and conditions of the lease and that you must cease such violation. The Notice to Terminate may also be used to terminate a month-to-month lease regardless of whether there are violations of lease terms. In the event you fail to remedy any of the items set forth in the notice or fail to vacate the dwelling, your lessor has the right to bring a lawsuit against you.

You would next be served with a summons and complaint personally or they will be affixed to your dwelling unit by an officer of the court. The documents tell you when and where you must appear and what claim is being placed against you by your lessor. It is in your best interest to appear at the court hearing to attempt to resolve the problem. You will be advised in the court hearing that you have the right to an attorney. At this stage of your relationship, it is advisable to be assisted with your legal rights. Several agencies capable of assisting you with your legal rights are listed elsewhere in this booklet.

Should the court find against you and you fail to make payment or remedy the problem within the court-allocated time, your lessor will have the right to evict you. This eviction procedure is currently accomplished with the assistance of a Washtenaw County Sheriffs deputy who assists in maintaining the peace.

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## **XII. COMMON SENSE OBLIGATIONS AND DUTIES OF THE TENANT**

- A. In no way is the list of legal duties a complete list of all duties. It is an attempt to list a few of the most obvious and important. Your lease most likely will create numerous other duties which are your legal obligation.
- B. The common sense items may also be legal duties and failure to comply with some of these items may also create a liability on you.
- C. Third parties may also have a claim against a tenant who fails to vacate properly or who damages their rights or property by a failure to properly perform either the legal duties or the common sense items.

## **XIII. LEASE ASSIGNMENT AND SUBLETTING**

See the white section.

## **XIV. YOUR SECURITY DEPOSIT**

The date of termination of your occupancy is the last day of your lease unless you have agreed with the lessor in writing to some other date. (Subletting does not automatically terminate your lease.)

The lessor is entitled to deduct from your security deposit the amount of your unpaid rent for the period of your actual or constructive possession without filing a lawsuit.

## **XV. LIABILITY FOR DAMAGES**

In order for the lessor to be held liable for damages to the tenant or the tenant's belongings, it must be established that the lessor was negligent or breached the lease. The opposite is also true; negligence or breach of lease must be found before the tenant can be held responsible for damages to the lessor or the lessor's property.

## **XVI. CODES**

The code requirements as previously listed may be changed by the Housing Board of Appeals for due cause and a variance granted to alter the code requirement for a specific location. The Housing Bureau of the Building Department in the Ann Arbor City Hall has records of variances which have been granted.

THE THREE SECTIONS OF THIS BOOKLET ON THE RIGHTS AND DUTIES OF TENANTS ARE THE OPINIONS OF THEIR AUTHORS. IF YOU HAVE ANY QUESTIONS CONCERNING YOUR RIGHTS AND DUTIES AS A TENANT, CONSULT YOUR LAWYER, FREE LEGAL AID SOCIETY, OR TENANTS UNION LAWYER.