Subject: Vulnerable Renter Protections Proposal: Addition of 60-day notice requirement as an affirmative defense for tenants facing eviction. This ordinance will sunset in approximately two years unless additional action is taken.

Key Points:
- Rents are increasing dramatically in the City of Vancouver. Most recent reports indicate that from July 2014-July 2015 renters have had a 9.8% rent increase.
- Current landlord-tenant law requires that tenants receive a minimum of a 20-day no cause notice to vacate.
- Vancouver and the surrounding metro area are experiencing an unusually low vacancy rate (less than 2 percent); making it very difficult for a family to find a rental unit.
- Incomes have not kept pace with rent increases.
- Supported by work from the Affordable Housing Task Force, the proposed ordinance would add a 60-day notice requirement for no cause evictions as an additional affirmative defense for tenants facing eviction in Vancouver city limits.
- Staff prepared two ordinances for Council consideration to allow for the option of including a provision exempting landlords owning fewer than five properties from this requirement.

Objective: To develop an ordinance that will provide some protections for vulnerable renters.

Present Situation: Vancouver and the surrounding communities are experiencing an unprecedented demand for rental units. The overall vacancy rate has continued its downward trend, evident in the graph below, into 2015. Current data (Q2 2015) shows a rental vacancy rate of 1.98%. The low supply of units compared to current demand has resulted in rising rents. The monthly cost (Q2 2015) for the average 2-bedroom, 1-bath apartment is $975, up from $716 at the end of 2013 and $924 at the end of 2014.
In Washington, landlords may terminate tenancy with month-to-month tenants by issuing a written notice at least 20 days before the end of their rental period (RCW 59.18.200). These are sometimes called “no cause” notices because they do not need to state the reason for termination. In addition to the 20-day notice, there are several other notices that landlords can serve tenants depending on the issue. The most common are:

- 3-day notice to pay or vacate
- 3-day notice for waste or nuisance
- 10-day notice to comply with the terms of the rental agreement or vacate

If the tenant fails to comply, pay or vacate during the specified timeline, the landlord can begin the eviction process.

Due to low vacancy rates, the rising cost of rent, and a lack of resources to pay for security deposits and other moving costs, tenants often find it difficult to secure a new rental within 20 days. During this time they must locate and be approved for an available unit, prepare for the move (e.g., rent a truck, pack belongings, find people to help on moving day), physically move their belongings, and clean the vacated unit. Some households may face additional tasks such as changing schools or arranging different transportation to school for a child during this time.

Households that are low-income can be severely impacted, with some ending up homeless (temporarily or for a longer duration). If a tenant is evicted, the damage to their rental history makes locating new housing more difficult.

The City ordinance will provide that tenants may assert an affirmative defense if landlords do not issue a 60-day notice to vacate prior to taking any eviction action toward the tenant. This ordinance will not supersede a landlord taking action under other portions of the landlord tenant law.

During the August 3 City Council workshop, Council directed staff to prepare two versions of this ordinance, one to include a provision that exempts landlords owning fewer than five properties, for Council to consider during the first reading. Ordinance Option B (attached) has been drafted to include that exemption.

**Advantage(s):**
1. If a tenant is unable to vacate within the 20-day window and the landlord proceeds with eviction, the tenant would be able to exercise the affirmative defense of not having received a 60-day notice. A new 60-day notice would then need to be given.
2. Although the requirement would still be 20 days, landlords may be more likely to provide 60 days when serving a no-cause notice in anticipation of possible eviction.

**Disadvantage(s):**
1. The 60-day notice as an affirmative defense could only be used if the landlord initiates the eviction process, which remains on a tenant’s record even if the tenant wins the court case.
2. The burden would be on the tenant to have knowledge of and exercise the affirmative defense in the case of eviction. However, landlord/tenant education programs or campaigns could be used to raise awareness of the new policy.
Budget Impact: None


Action Requested:
1. On Monday, September 14, 2015, following first reading and a public hearing, approve ordinance option A or B., setting date of second reading and public hearing for Monday, September 21, 2015.
2. On Monday, September 21, 2015, following second reading and public hearing, approve ordinance.

Attachment(s):
- Ordinance Option A
- Ordinance Option B (includes exemption)

To request other formats, please contact:
City Manager’s Office
(360) 487-8600 | WA Relay: 711
Amanda.Delapena@cityofvancouver.us
ORDINANCE NO. __________

AN ORDINANCE relating to an affirmative defense for month-to-month tenants who are not provided a 60-day notice prior to the landlord commencing an eviction action unless a different notice period is specifically authorized by law; providing for severability and an effective date.

WHEREAS, as reflected in SR - __________, Vancouver and the surrounding communities are experiencing an unprecedented demand for rental units; and

WHEREAS, the overall vacancy rate has continued its downward trend; and

WHEREAS, current data shows a rental vacancy rate of 1.98%; and

WHEREAS, the low supply of units compared to current demand has resulted in rising rents; and

WHEREAS, the monthly cost for the average 2-bedroom, 1-bath apartment is $975, up from $716 at the end of 2013 and $924 at the end of 2014; and

WHEREAS, in Washington, landlords may terminate tenancy with month-to-month tenants by issuing a written notice at least 20 days before the end of the rental period; and

WHEREAS, 20 day notices are sometimes called “no cause” notices because they do not need to state the reason for the termination; and
WHEREAS, due to low vacancy rates, the rising cost of rent, and the lack of resources to pay for security deposits and other moving costs, tenants often find it difficult to secure a new rental within 20 days; and

WHEREAS, during this 20 days, tenants must locate and be approved for an available unit, prepare for the move, physically move their belongings, and clean the vacated unit;

WHEREAS, some households may face additional tasks such as changing schools or arranging different transportation to school for a child during this time; and

WHEREAS, households that are low-income can be severely impacted, with some ending up homeless; and

WHEREAS, if a tenant is evicted, the damage to their rental history makes locating new housing even more difficult;

WHEREAS, the city of Vancouver recognizes that this is a complex, changing, ongoing and evolving issue; and

WHEREAS, this ordinance is an exercise of the city of Vancouver’s police and legislative authority derived from Wash. Const. art. XI, § 11 and is consistent with RCW 35.22.280, and is to protect the public’s health, safety and welfare; and

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. A new Chapter designated as VMC 8.47 is hereby added to read as follows:

Chapter 8.47 – EVICTION NOTICE

8.47.010 – Definitions
8.47.020 – Additional Affirmative Defense Created
8.47.030 – Sunset Clause
Section 2. A new Section designated as VMC 8.47.010 is hereby added to read as follows:

**VMC 8.47.010 – Definitions**

“Dwelling unit” means any building or portion thereof which contains living facilities including provisions for sleeping, eating, cooking and sanitation, including not more than one kitchen for not more than one family which is made available for rent.

“Tenant” means a person occupying or holding possession of a building or premises pursuant to a rental agreement, including an expired rental agreement.

Section 3. A new Section designated as VMC 8.47.020 is hereby added to read as follows:

**VMC 8.47.020 – Additional Affirmative Defense Created**

A. Pursuant to provisions of the state Residential Landlord-Tenant Act (Chapter 59.18 RCW) owners may not evict residential tenants without a court order, which can be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction (RCW 59.18.380).

In addition to any other legal defense a tenant may have, it is an additional affirmative defense to an unlawful detainer action that a landlord failed to give a 60 day “no cause” notice to a monthly or periodic tenant, with service conforming with RCW 59.12.040, prior to the end of such month or period unless a different for cause notice period is specifically authorized by law. Examples of for cause notice that are exempt from this Section include, but are not limited to, 3 day notice to pay or vacate, 3 day notice for waste or nuisance, and 10 day notice to comply with the terms of the rental agreement or vacate.

B. Any rental agreement provision which waives or purports to waive any right, benefit or entitlement created by this Section shall be deemed void and of no lawful force or effect.

Section 4. A new Section designated as VMC 8.47.030 is hereby added to read as follows:

**VMC 8.47.030 – Sunset Clause**

This Chapter shall be null, void and of no force and effect on and after November 20, 2017, unless further legislative action is taken.
Section 5. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not effect or invalidate the remainder of any parts thereof to any person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 6. Effective date. This ordinance shall become effective thirty (30) days following the date of final adoption.

Read first time:

Ayes: Councilmembers
Nays: Councilmembers
Absent: Councilmembers

Read second time:

PASSED by the following vote:

Ayes: Councilmembers
Nays: Councilmembers
Absent: Councilmembers

SIGNED this _____ day of _________________________, 2015.
SUMMARY

ORDINANCE NO. __________

AN ORDINANCE relating to an affirmative defense for month to month tenants who are not provided a 60 day notice prior to the landlord commencing an eviction action unless a different notice period is specifically authorized by law; providing for severability and an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).
ORDINANCE NO. __________

AN ORDINANCE relating to an affirmative defense for month-to-month tenants who are not provided a 60-day notice, by landlords owning five (5) or more rental units, prior to the landlord commencing an eviction action unless a different notice period is specifically authorized by law; providing for severability and an effective date.

WHEREAS, as reflected in SR - __________, Vancouver and the surrounding communities are experiencing an unprecedented demand for rental units; and

WHEREAS, the overall vacancy rate has continued its downward trend; and

WHEREAS, current data shows a rental vacancy rate of 1.98%; and

WHEREAS, the low supply of units compared to current demand has resulted in rising rents; and

WHEREAS, the monthly cost for the average 2-bedroom, 1-bath apartment is $975, up from $716 at the end of 2013 and $924 at the end of 2014; and

WHEREAS, in Washington, landlords may terminate tenancy with month-to-month tenants by issuing a written notice at least 20 days before the end of the rental period; and

WHEREAS, 20 day notices are sometimes called “no cause” notices because they do not need to state the reason for the termination; and
WHEREAS, due to low vacancy rates, the rising cost of rent, and the lack of resources to pay for security deposits and other moving costs, tenants often find it difficult to secure a new rental within 20 days; and

WHEREAS, during this 20 days, tenants must locate and be approved for an available unit, prepare for the move, physically move their belongings, and clean the vacated unit;

WHEREAS, some households may face additional tasks such as changing schools or arranging different transportation to school for a child during this time; and

WHEREAS, households that are low-income can be severely impacted, with some ending up homeless; and

WHEREAS, if a tenant is evicted, the damage to their rental history makes locating new housing even more difficult;

WHEREAS, the city of Vancouver recognizes that this is a complex, changing, ongoing and evolving issue; and

WHEREAS, this ordinance is an exercise of the city of Vancouver’s police and legislative authority derived from Wash. Const. art. XI, § 11 and is consistent with RCW 35.22.280, and is to protect the public’s health, safety and welfare; and

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. A new Chapter designated as VMC 8.47 is hereby added to read as follows:

Chapter 8.47 – EVICTION NOTICE

8.47.010 – Definitions
8.47.020 – Applicability
8.47.030 – Additional Affirmative Defense
8.47.040 – Sunset Clause
Section 2. A new Section designated as VMC 8.47.010 is hereby added to read as follows:

**VMC 8.47.010 – Definitions**

“Dwelling unit” means any building or portion thereof which contains living facilities including provisions for sleeping, eating, cooking and sanitation, including not more than one kitchen for not more than one family which is made available for rent.

“Tenant” means a person occupying or holding possession of a building or premises pursuant to a rental agreement, including an expired rental agreement.

Section 3. A new Section designated as VMC 8.47.020 is hereby added to read as follows:

**VMC 8.47.020 – Applicability**

Section 8.47.030(A)(1) applies only to owners of real property, made available for rent, owning a total of five (5) or more dwelling units, all of which are made available for rent, regardless of whether the rental dwelling units are all in the same location/complex or not.

Section 4. A new Section designated as VMC 8.47.030 is hereby added to read as follows:

**VMC 8.47.030 – Additional Affirmative Defense Created**

A. Pursuant to provisions of the state Residential Landlord-Tenant Act (Chapter 59.18 RCW) owners may not evict residential tenants without a court order, which can be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction (RCW 59.18.380).

1. In addition to any other legal defense a tenant may have, it is an additional affirmative defense to an unlawful detainer action that a landlord failed to give a 60 day “no cause” notice to a monthly or periodic tenant, with service conforming with RCW 59.12.040, prior to the end of such month or period unless a different for cause notice period is specifically authorized by law. Examples of for cause notice that are exempt from this Section include, but are not limited to, 3 day notice to pay or vacate, 3 day notice for waste or nuisance, and 10 day notice to comply with the terms of the rental agreement or vacate.

B. Any rental agreement provision which waives or purports to waive any right, benefit or entitlement created by this Section shall be deemed void and of no lawful force or effect.
Section 5. A new Section designated as VMC 8.47.040 is hereby added to read as follows:

**VMC 8.47.040 – Sunset Clause**

This Chapter shall be null, void and of no force and effect on and after November 20, 2017, unless further legislative action is taken.

Section 6. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not effect or invalidate the remainder of any parts thereof to any person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 7. Effective date. This ordinance shall become effective thirty (30) days following the date of final adoption.

Read first time:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read second time:

PASSED by the following vote:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this _____ day of _________________________, 2015.
SUMMARY

ORDINANCE NO. __________

AN ORDINANCE relating to an affirmative defense for month-to-month tenants who are not provided a 60-day notice, by landlords owning five (5) or more rental units, prior to the landlord commencing an eviction action unless a different notice period is specifically authorized by law; providing for severability and an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).