

City of Neenah Police Department



Chronic Nuisance Program Guidebook

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Introduction

The main purpose of a police department is to enforce the laws and protect the citizens of the community that it serves. Often times, the police are called upon to solve problems that affect the community as a whole or just a specific neighborhood. Many times these problems are not criminal in nature and may be viewed by some as minor when compared to other crimes; however these problems affect the quality of life for all of us.

Here in the Fox Cities and the City of Neenah, our quality of life has been an important part and reason that many of us choose to live and raise families in this area. Studies have shown that when these quality of life problems go unaddressed, they tend to lead to much bigger problems such as drug dealing, thefts, burglaries, and crimes of violence.

Here in the City of Neenah, we have been working to encourage neighbors to take on more of their responsibility for preventing crime on their property and in their neighborhoods. We have also made efforts to improve the way we, the police, address problems with nuisance activity in residential neighborhoods. What you can do is learn how to keep illegal activity off your property and make a commitment to removing or stopping it the moment it occurs.

This guidebook explains our Chronic Nuisance Abatement Program that we have developed to address these problems. It is not all about enforcement and fines; you will see that the program focuses on education and increased communication. We often look only to the police for solutions and forget that neighbors, landlords, and property owners have tremendous power over the basic health of a community. The most effective way to deal with nuisance activity is through a coordinated effort with police, landlords, property owners and neighbors. Although, for those property owners that do not wish to work together and if problems continue on their property, there can be enforcement action taken.

The Neenah Police Department is committed to developing cooperative relationships with landlords and property owners. The following information is provided by the Neenah Police Department to assist landlords and property owners in screening prospective tenants and keeping illegal activity out of their rental units.

These are guidelines only and do not absolve property owners of the responsibility for properly managing their business.

If you need any assistance or have any further questions, please contact the Crime Prevention Coordinator at (920) 886-6022.

Crime Prevention Through Environmental Design

Crime Prevention Through Environmental Design (CPTED) adjusts the environmental design of a property by using lighting, landscaping and overall design. These adjustments then make the property undesirable to opportunistic criminals. CPTED has been used to combat crimes that might occur in residences, businesses, parking lots, and common areas. These crimes include assaults, robberies, burglaries, and thefts. CPTED has been extremely successful in combating the opportunistic criminal.

The four key concepts of CPTED are:

Natural Surveillance – "See and be seen" is the overall goal when it comes to CPTED and natural surveillance. A person is less likely to commit a crime if they think someone will see them do it. Lighting and landscape play an important role in Crime Prevention Through Environmental Design.

Examples include:

- *Place lighting in such a way that it allows people to be recognized from 25 feet away. Avoid lighting that glares into the eyes of passerby's or residents as it will make it difficult to see visitors. Try to keep the light a white color to allow visitors to be better seen.*
- *Trim shrubs to no less than 36" high and trees up 7' from the ground. This allows you to maintain the shade of the trees and curb appeal of the shrubbery while still allowing a clear, unobstructed view of your property. It also prevents criminals from hiding on your property.*

Natural Access Control – Natural Access Control is more than a high block wall topped with barbed wire. CPTED utilizes the use of walkways, fences, lighting, signage and landscape to clearly guide people and vehicles to and from the proper entrances. The goal with this CPTED principle is not necessarily to keep intruders out, but to direct the flow of people while decreasing the opportunity for crime.

Examples include:

- *Plant grass, flowers, other shrubbery, or install short walls or fences to clearly show the property lines. This demonstrates that you are responsible for your property.*
- *Especially in the front yard, maintaining your landscaping to provide good access and visibility to your neighbors creates the image of a close-knit community.*

Territorial Reinforcement – Creating or extending a "sphere of influence" by utilizing physical designs such as pavement treatments, landscaping and signage that enable users of an area to develop a sense of proprietorship over it is the goal of this CPTED principle. Public areas are clearly distinguished from private ones. Potential trespassers perceive this control and are thereby discouraged.

Examples include:

- *Make sure all exterior doors are solid-core and are secured by a deadbolt with at least a 1" throw. Strike plates should also be secured with at least 3" screws. This helps to keep the door from being pried or kicked open.*
- *All windows and sliding doors in your home should have locks to keep them from being pushed open from the outside.*

Maintenance – CPTED and the "Broken Window Theory" suggests that one "broken window" or nuisance, if allowed to exist, will lead to others and ultimately to the decline of an entire neighborhood. Neglected and poorly maintained properties are breeding grounds for criminal activity. We will work with you to develop a formal CPTED based maintenance plan to help you preserve your property value and make it a safer place.

Examples include:

- *Keeping your home painted, clean, and repaired sends the message that you are taking responsibility for your property and will call the police in the event of suspicious or criminal activity.*
- *The storage of vehicles on your property for long periods of time creates several problems. It presents a target for potential car thieves or burglars. It creates places for trespassers or criminals to hide. It may also create the image that the vehicles are abandoned and uncared for.*

Screening Guidelines

The City of Neenah Police Department is committed to developing cooperative relationships with landlords. The following is provided to assist landlords in screening prospective tenants and keeping illegal activity out of their rental units. These are guidelines only and do not absolve property owners of responsibility for properly managing their business.

Introduction

- ❖ **Set the tone:** Advise prospective tenants of your screening requirements, that you monitor the activity at your property, that you cooperate with the police department and are alerted to police calls to the property, and that you regularly inspect the internal and external condition of the property.

Application

- ❖ Require that each adult applicant complete an application and provide two pieces of identification (at least one photo ID). Keep a copy of their ID's on file.
- ❖ Be sure to have up-to-date application forms and ask, "Have you ever been convicted for dealing or manufacturing illegal drugs?" and "Have you ever been evicted?"
- ❖ Consider the application "interview" - in which you ask the application questions and fill it out yourself. Advantages: You can read the writing, you can gauge the applicant's reactions to questions, and applicants should know the answer to most questions without having to think about it or look it up (such as their date of birth, current address, employer, etc.). For the questions that they reasonably can't answer on site, allow them to call you back with the additional information.
- ❖ Deny the application for
 - Providing false, incomplete, or omitting information on the application
 - Convictions for drug activity
 - Some types of court judgments
 - Poor credit check
 - Poor reference from previous landlord

** If you use the same screening continuum for all applicants and accept the first qualified applicant, you should have no concern about discrimination charges.

Screening/Verifying Information

- ❖ Compare the information from the ID's with the information given on the application.
- ❖ Review criminal history:
 - Check CCAP for Circuit Court records in WI: <http://wcca.wicourts.gov/index.xsl>.
- ❖ Independently identify previous landlords. Verify ownership of property through tax rolls. For Winnebago County: <http://www.co.winnebago.wi.us/tax/searchall.htm>
- ❖ When calling previous landlords, allow them to provide the information. For example, ask "How are you familiar with Joe Brown?" "What is the address of the property he rents from you?" If this is their friend posing as a landlord, they may not be able to answer open-ended questions. Ask if the tenant has given proper notice and if they are breaking their lease. Finally, ask, "Would you rent to this person again?"
- ❖ Because there are costs involved, run a credit check after using all of the free or cheaper resources. Running a credit check will help you verify sources of income/debt and also provide past addresses, which should be checked against the application.

Other Screening Tips

- ❖ Watch out for Friday afternoon applicants willing to pay several months in advance with cash.
- ❖ Observe the way the applicant looks at the unit. “Good” applicants will likely be interested in checking out how the storage space is set up, how their furniture will fit, etc.
- ❖ Be aware that “fronts” (those posing as a tenant) are used often.
- ❖ Consider driving by the applicant’s current residence.

Lease Agreement

- ❖ Emphasize:
 - Subleasing is not permitted and that only those on the agreement may occupy the residence.
 - Guests (define “guest”) are to stay no longer than two weeks without the written consent of management.
 - To add any additional adult members to the household, that person will need to complete the application, provide ID’s, go through the screening, sign the lease, etc.
 - The tenant is responsible for their conduct and the conduct of any guests on the property.
 - The tenants/guests will not unduly disturb the neighbors.
 - No criminal activity is tolerated and will result in immediate eviction. Criminal activity includes but is not limited to drug activity, criminal damage to property, domestic abuse, etc. (Remember the lease is a civil agreement and you need only a civil level of proof, not criminal.)
- ❖ Consider using month-to-month leases (rather than a year long lease) – this allows the landlord much more latitude in removing a problem tenant as the tenant can be issued a “28 day termination notice without cause,” simply ending the lease.

Ongoing management

- ❖ Continually monitor the physical condition of your property and any police calls to your property.
- ❖ Don’t bend the rules.
- ❖ Take action if neighbors call to complain, if you get notices from the police department, etc.
- ❖ Regularly drive by to do a quick visual inspection from the outside.
- ❖ Regularly inspect the interior. This can be done by giving the tenant 12 hours of notice.
- ❖ An interior inspection is recommended at least every six months.

Keep the property in good condition. This attracts honest renters and may keep dishonest ones away. Also, if there are code violations, an eviction may be more difficult because the tenant can claim that the landlord is retaliating for the tenant reporting these violations.



Informational Only: Public/Chronic Nuisance Ordinance Overview

Property owners are legally responsible for properly maintaining/managing their properties. If a public/chronic nuisance exists, under City of Neenah Ordinance – Section 10, the property owner may be subject to the following:

- 1) Citation(s) for Maintaining a Public Nuisance, with a fine for each incident and for each day the nuisance continues.
- 2) Bill(s) for police services at the property due to failure to eliminate the nuisance activity. If not paid, the bill amounts may be assessed as a special charge against the premises.
- 3) Additional legal action against the owner/property by the City of Neenah through Circuit Court.

Billing Property Owners

The second section of City of Neenah Ordinance - Section 10 allows the city to recover the costs of police services from the property owner under certain circumstances. The procedure is as follows:

- 1) The property is deemed a chronic nuisance.
- 2) The owner is notified via a formal letter, sent certified mailed, and is ordered to appear for an abatement hearing on a given date/time.
- 3) If the owner does not make a bona fide effort to follow the abatement plan, the City of Neenah may bill the owner for any additional nuisance police calls to that property.

Deeming a property a chronic nuisance: A property may be deemed a chronic nuisance when there have been three or more separate police responses resulting in enforcement action (warning, citation, or arrest) due to the following types of violations within any 12 month period:

- Disorderly Conduct
- Harassment
- Crimes of violence
- Theft
- Damage to property
- Sexual crimes
- Gambling
- Illegal drug activity
- Animal violations
- Trespassing
- Weapons violations
- Noise violations
- Execution of warrants
- Alcohol violations
- Obstructing/resisting
- Inspection-related calls in which the police department responds

*****State Chapter 823 violations will be abated immediately.*****

*****It should further be noted that calls generated by the property owner are exempt and will not be counted.*****

Working with Property Owners

The City of Neenah and the City of Neenah Police Department strive to work cooperatively with property owners in resolving problems at properties. Legal action as mentioned above is only used when there is no other resolution to a situation. Please do not hesitate to contact the police department for any assistance.



CITY OF NEENAH

CHRONIC NUISANCE ORDINANCE

FREQUENTLY ASKED QUESTIONS

Why such an ordinance?

- Property where nuisance activity occurs regularly is a blight on the whole neighborhood. The nuisances frighten away law abiding residents, discourage reinvestment and consume police services. Responsible property owners can and usually do take steps to discourage those that cause such behaviors from occupying their buildings.

What type of properties does the ordinance apply to?

- All types of properties are included: owner occupied residential homes, rental properties, multi unit housing properties, businesses, and taverns.

What does the ordinance say?

- When the police department determines that **three or more** nuisance activities resulting in an **enforcement action (warning, citation, or arrest)**, have occurred at the property within a **12 month period**, they will order the property owner in for a meeting at the police department and work together to develop an abatement plan to address the problem(s).

What nuisances are covered?

- There are many different crimes and ordinances listed in the ordinance including but not limited to: disorderly conduct, battery, loud music, illegal drug activity, animal violations, alcohol violations, obstructing/resisting arrest, damage to property and arrest/search warrants.

What about domestic abuse incidents?

- Gov. Doyle recently signed a legislation that prevents landlords and local governments from imposing penalties or fees on tenants who call for emergency services. This new law also allows victims of domestic violence to break a rental agreement if he or she feels that staying on the property is dangerous.

What about selling drugs, do we wait for them to sell 3 times?

- No. Chapter 823 of Wis. Stats. states that allow for a 5-day no cure eviction to be served if the property is used to facilitate the delivery, distribution or manufacture of a controlled substance. This chapter also addresses residences that facilitate gang activity and houses of prostitution.

What does state law say about activities in a rental property?

- Wisconsin Statute 704.05(3): The tenant cannot use the premises for any unlawful purpose or in such manner as to interfere unreasonably with the use by another occupant of the same building or group of buildings.

Do calls made to the police department by the owner/landlord count?

- No. The police department encourages owners/landlords to be actively engaged in managing their property and request that they should contact the police department if they need any type of assistance.

Is the police department just targeting the landlords when they should be targeting the criminals?

- We are enforcing these violations with the tenants prior to addressing the situation with the property owners. After 3 incidents, the police department meets with the property owner to address these situations and works with them in correcting the problem. It does put some of the work on the landlord to enforce their leases and maintain their property. However, it will prove beneficial in the long run as they will be able to maintain and attract residents by keeping a safe and clean environment.

How will the police department help the landlords?

- The abatement plan has specific suggestions that the landlord can use in correcting the problem(s). For example, if criminals have been using bushes to hide in and then robbing those walking by, the plan should include trimming or cutting down the bushes. If in one 12-month period, a tenant has been given two noise tickets and keeps a barking dog, the plan should include enforcing your statutory lease provisions concerning no illegal activity on the premises.
- Not only does this ordinance encourage increased communication between the landlords and the police department, there are suggestions such as: joining an apartment association, attending landlord training programs, enforcing current leases, adding the *Crime Free lease addendum*, forming Neighborhood Watch programs, posting Crime Stoppers information, etc.

What should property owners do if they are contacted by neighbors about such nuisance activities?

- Take them seriously and respond in the same way that would be needed to solve the problem as if the contact was from the police department. If neighbors are good enough to alert the owner/manager of a problem, they will probably react positively to constructive action taken by the owner/manager. If the owner fails to do anything, the neighbors will probably be contacting the police as well as pursuing other remedies.

What happens if the property owner does nothing?

- If the property owner chooses to do nothing, or at least show a good faith effort in trying to correct the problem, the City of Neenah may bill the owner for any future police responses that are in violation of this ordinance. These bills are then placed on the property tax if they go unpaid. The property could then possibly face foreclosure. If all else fails, the City of Neenah will pursue abatement through Circuit Court under Chapter 823, Wis. Stats.

Can the property owner appeal?

- Yes. The ordinance provides for an appeal of a determination that a nuisance exists or the police department's rejection of an owner's plan to abate the nuisance activities. Such appeals can be made through the City Common Council.

Wisconsin's Public Nuisance Law – Chapter 823

Drug House Nuisance - §823.113(11)

- Any building or structure that is used to facilitate the delivery, distribution, or manufacture of a controlled substance or a controlled substance analog is a public nuisance and may be proceeded against under section 823.

Gang House Nuisance - §823.113(b)

- Any building or structure that is used as a meeting place of a criminal gang or that is used to facilitate the activities of a criminal gang, is a public nuisance and may be proceeded against under section 823.

Prostitution Nuisance- §823.09

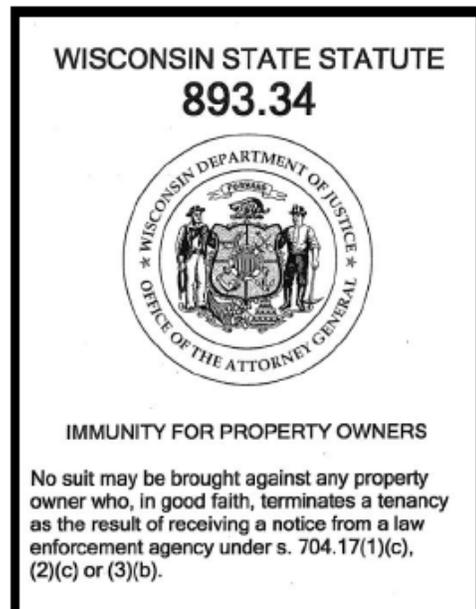
- Whoever shall erect, establish, continue, maintain, use, occupy or lease any building or part of a building or place to be used for the purpose of lewdness, assignation of prostitution, or permit the same to be used may be permitted against under section 823.

Gambling Place Nuisance – §823.20

- Whoever shall erect, establish, continue, maintain, use, occupy or lease any building or part of a building or place to be used for the purpose of gambling as defined in §945.01(4)(a) may be proceeded against under section 823.

Wisconsin's landlord-tenant law, Chapter 704, allows landlords to terminate the tenancy (5 day no cure) for any of the above listed violations.

The landlord must receive a written notice from law enforcement that one of these nuisances exists or was caused by the tenant.



Wisconsin Consumer Protection Laws

Landlord-Tenant Practices

The Landlord-Tenant Relationship

Wisconsin Statutes chapter 704 spells out the general responsibilities of landlords and tenants. Chapter 704 addresses the following:

Rental Agreement

The rental agreement establishes the terms of tenancy, except as provided by law. A rental agreement must be in writing if it is for a definite term of more than one year. A rental agreement remains in effect until it expires or is properly terminated according to chapter 704.

Types of Tenancy

Chapter 704 recognizes 3 different types of tenancy. The type of tenancy affects the legal rights of the landlord and tenant. The 3 types of tenancy are:

- A ***“lease”*** is an *oral* or *written* agreement for a *definite term*, such as one year. The lease terminates itself at the end of that term, unless the parties agree to renew or extend.
- A ***“periodic tenancy,”*** such as a month-to-month or week-to-week tenancy, has no definite termination date. A “periodic tenancy” continues indefinitely, with the tenant paying rent on a *regular periodic basis*, until the landlord or tenant terminates the tenancy. The rental agreement may or may not be in writing.
- A ***“tenancy at will”*** exists when a tenant occupies the premises with the landlord’s consent, but there is no *lease* or *periodic tenancy*. A “tenancy at will” continues until the landlord or tenant terminates it.

Terminating a Periodic Tenancy

A landlord or tenant may terminate a month-to-month or other *periodic tenancy* by giving a proper termination notice to the other party. The same procedure applies to a *tenancy at will*. Special requirements apply to mobile home park tenancies (see Wisconsin Statutes section 710.15 and Wisconsin Administrative Code chapter ATCP 125).

- Either party may terminate at any time, with or without “cause.” The termination notice need not specify a reason for termination. By contrast, a party must have legally adequate “cause” to terminate a *lease* before the end of the lease period (see below).
- A party must give the termination notice in writing, at least 28 days before the termination date. If the tenant pays rent on a shorter periodic basis, such as weekly, the notice need only precede the termination date by the length of the rent-paying period.
- The termination date must coincide with the end of a rent-paying period.
- A party may terminate on shorter notice for legally adequate “cause” (see below).

Failure to Pay Rent: Terminating Tenancy for Nonpayment of Rent

If a tenant fails to pay rent when due under a lease or other tenancy, the landlord may do any of the following:

- Give the tenant a written notice to pay within 5 days or vacate. If the tenant fails to pay within the 5-day period, the tenancy is terminated.
- Give the tenant a 14-day written notice terminating the tenancy, with no opportunity to cure the default. The landlord may not use this option unless one of the following applies:
 - The tenant is a month-to-month tenant, and is still in default when the landlord gives the 14-day notice terminating tenancy.
 - The tenant has a lease for one year or less, and defaults for a second time within one year after a prior default for which the landlord gave notice.

A landlord may recover unpaid rent from a defaulting tenant:

- If there is a *lease*, the tenant may be liable for rent for the remainder of the lease term. But the landlord must minimize the rent loss (and hence the tenant's obligation), by making a reasonable effort to re-rent the premises. The landlord may recover the net rent loss, plus the reasonable cost to re-rent the premises.
- The landlord may deduct, from the tenant's security deposit, the net rent loss for which the tenant is legally responsible. The landlord may also go to court to recover that loss.

Tenant Damage to Premises: Terminating Tenancy for Tenant Damage or Breach

A landlord may terminate a lease or other tenancy if the tenant damages the premises or violates the rental agreement:

Periodic tenancy. If a month-to-month or week-to-week tenant negligently damages the premises or violates the rental agreement (other than by failing to pay rent), the landlord may give the tenant a 14-day written notice terminating the tenancy. The landlord need not give the tenant an opportunity to cure the violation.

Lease. If a tenant under a lease (for a term of one year or less) damages the premises or violates the lease, the landlord may terminate the tenancy as follows:

- The landlord may give the tenant a written notice to cure the violation or vacate the premises within 5 days. The tenancy is terminated if the tenant fails to take reasonable steps to cure the violation within 5 days.
- If there is a repeat violation within one year, the landlord may give the tenant a 14-day written notice terminating the tenancy, with no opportunity to cure the violation.
- If a local law enforcement agency gives a landlord written notice that a tenant has caused a public nuisance on the rental premises, the landlord may terminate the tenancy on 5 days written notice.

“Untenantable” Premises

A tenant may terminate a lease or rental agreement if either of the following occurs:

- The premises become “untenantable” because of damage by fire, water or other casualty.
- The landlord fails to comply with his or her maintenance obligations, and the violation materially affects the tenant’s health or safety.

In these cases, the tenant may move out without paying rent for the remainder of the rental term *unless* the landlord promptly repairs the premises or corrects the violation.

- Even if the landlord repairs the problem, the tenant may move out without paying further rent if the repair imposes an undue hardship on the tenant.
- If the tenant continues to occupy, rent abates to the extent that the tenant is deprived of full normal use of the premises.
- A tenant may not completely withhold rent while continuing to occupy the premises. However, some local housing codes may allow tenants to pay rent to an “escrow” account until the landlord makes the repairs.

Illegal Termination by Landlord: Illegal Termination

A landlord may not terminate a lease or other tenancy in violation of applicable housing discrimination laws. Nor may a landlord terminate because a tenant has done any of the following:

- Reported a housing code violation.
- Joined or attempted to organize a tenants’ association.
- Asserted a right specifically guaranteed to tenants under state or local law.

Landlord’s Maintenance Responsibilities

A landlord must do all the following:

- Keep in reasonable repair those portions of the premises that the landlord controls.
- Keep equipment, such as heat, water, elevator and air conditioning, in reasonable repair if all the following apply:
 - The landlord controls the equipment.
 - The equipment is necessary to provide services that the landlord has expressly or implicitly agreed to furnish.
- Make all necessary structural repairs.
- Repair or replace furnished plumbing, electrical wiring, machinery or equipment that is no longer in reasonable working condition. This does not apply to repairs that the tenant can perform at a cost that is small in relation to the rent. A local housing code may change this allocation of maintenance responsibilities.
- Comply with applicable local housing codes.

Tenant's Maintenance Responsibilities

- If a tenant negligently damages the rental premises, the tenant must repair the damage. But the landlord may elect to do the repair and charge the tenant for the reasonable cost.
- A tenant must keep furnished plumbing, electrical wiring, machinery and equipment in reasonable working order if the tenant can do so at a cost that is minor in relation to the rent. A local housing code may change this allocation of maintenance responsibilities.
- A tenant must comply with applicable local housing codes.

Use and Possession of Premises

Unless there is a separately negotiated agreement to the contrary:

- The tenant has a right to exclusive possession of the premises for the duration of the rental agreement, as long as the tenant does not default on rent payments.
- After giving advance notice to the tenant, the landlord may at reasonable times inspect the premises, make repairs, and show the premises to prospective tenants or purchasers. Under Wisconsin Administrative Code chapter ATCP 134, the landlord must give the tenant at least 12 hours advance notice unless the tenant, upon being notified of a proposed entry, consents to an earlier entry.
- If the tenant is absent from the premises and the landlord reasonably believes that entry is necessary to preserve or protect the premises, the landlord may enter without notice and with such force as appears necessary.

A tenant may not:

- Remodel or alter the premises without the landlord's consent.
- Use the premises for illegal purposes.
- Unreasonably interfere with other occupants' use of the same building or group of buildings.

Subleasing

A tenant under a *lease* may sublease the premises unless the lease expressly restricts the tenant's power to do so. Most other tenants, such as month-to-month tenants, must get the landlord's permission to assign their tenancy to others. The original tenant remains liable for all of the tenant's obligations under the rental agreement, unless the landlord agrees otherwise.

Tenant's Personal Property

If a tenant vacates the premises and leaves personal property, the landlord may do any of the following:

- Store the property on or off the premises. The landlord has a lien against the property for the actual and reasonable costs of removal and storage. The landlord must notify the tenant within 10 days after any storage charges begin.

- Notify the tenant that the landlord will sell or dispose of the property if the tenant does not claim it. If the tenant does not claim the property within 30 days, the landlord may sell or dispose of the property. The landlord must give the sale proceeds to the tenant if the tenant claims them within 60 days after the sale. The landlord may deduct the reasonable costs of storage and disposal.
- Store the property without charge and return it to the tenant.