



City of Madison

City of Madison
Madison, WI 53703
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Master

File Number: 15526

File ID: 15526

File Type: Ordinance

Status: Report of Officer

Version: 2

Reference:

Controlling Body: HOUSING
COMMITTEE

Lead Referral: HOUSING
COMMITTEE

File Created Date : 07/27/2009

File Name: Photographic evidence-tenant/landlord

Final Action: 11/09/2010

Title: SUBSTITUTE Amending Secs. 32.05(3), 32.07(7)(b), 32.14(1) and 1.08(3)(a) of the Madison General Ordinances to require that tenants be informed in a notice of a specific font of their right to inspect photographic evidence and increasing various penalties.

Notes: 4609penalitesSUB

CC Agenda Date: 11/09/2009

Agenda Number: 37.

Sponsors: Bryon A. Eagon, Tim Bruer, Shiva Bidar-Sielaff,
Marsha A. Rummel, Judy Compton and Bridget R.
Maniaci

Enactment Date:

Attachments: Bail deposit table, Version 1

Enactment Number: ORD-10-00108

Author: Adriana Peguero

Hearing Date:

Entered by: dalthaus@cityofmadison.com

Published Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Attorney's Office/Approval Group	07/27/2009	Referred for Introduction				
	Action Text:		This Ordinance was Referred for Introduction				
	Notes:		Housing Committee				
1	COMMON COUNCIL	08/04/2009	Referred	HOUSING COMMITTEE		12/02/2009	
	Action Text:		This Ordinance was Referred to the HOUSING COMMITTEE				
	Notes:		Additional Referral(s): Common Council Organizational Committee				
1	HOUSING COMMITTEE	08/04/2009	Refer	COMMON COUNCIL ORGANIZATIONA L COMMITTEE		09/01/2009	
	Action Text:		This Ordinance was Refer to the COMMON COUNCIL ORGANIZATIONAL COMMITTEE				
	Notes:						
1	COMMON COUNCIL ORGANIZATIONAL COMMITTEE	09/01/2009	Return to Lead with the Recommendation for Approval	HOUSING COMMITTEE		12/02/2009	Pass

Action Text: Ald. Bryon Eagon noted that the ordinance would require that all check out forms provide notification to tenants of their right to inspect photographic evidence document tenant damage, waste or neglect and that the forms be in a minimum of 12-point font.

Alds. Bruer, Bidar-Sielaff, Rummel, Schumacher and Compton requested to be added as co-sponsors (Ald. Schumacher later contact Council staff to remove his name).

A motion was made by Ald. Mark Clear, seconded by Ald. Brian Eagon, to Return to Lead with the Recommendation for Approval to the HOUSING COMMITTEE. The motion passed by voice vote/other.

Notes:

1	HOUSING COMMITTEE	09/02/2009	Refer	LANDLORD AND TENANT ISSUES SUBCOMMITTEE	10/07/2009	Pass
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Action Text: A motion was made by Brink, seconded by Maniaci, to Refer to the LANDLORD AND TENANT ISSUES SUBCOMMITTEE. The motion passed by voice vote/other.

Notes:

1	LANDLORD AND TENANT ISSUES SUBCOMMITTEE	09/17/2009				
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Action Text: Nancy Jensen appeared to speak (representing landlords) in complete opposition. Problem with font language and bail bond amendment.

A motion was made by Ejercito, seconded by Sparer, to return to the Housing Committee with the recommendation for approval.

A motion was made by Brink, seconded by Ejercito to amend the motion to change the font size to 10 pt. The motion on the amendment passed by voice vote/other.

A motion was made by Brink, seconded by Ejercito to amend the motion to indicate that it should always be called the "Landlords and Tenants Rights" so both parties comply and have the same information. The motion on the amendment passed by voice vote/other.

A motion was made by Sparer, seconded by Brink, to not include the following language on the check-in sheet, which is currently in Section 32.07(7), with one addition (in italics/bold) "...and a notice provided in a minimum 10 pt size font, that the tenant will be provided a copy of the photographs documenting any damage, waste or neglect of the premises being charged to the tenant if requested by the tenant in writing within 30 days of receipt of the notice. Upon receipt of a timely request, the landlord has 30 days to provide the tenant a copy of the photographs maintained by the landlord under Sec. 32.07(14)(a) documenting the damage, waste or neglect..."

Chair Sparer requested that the sponsors, City Attorney, and a Police Department representative be asked to attend the next Landlord & Tenant Issues Subcommittee meeting and the next Housing Committee Meeting.

Ejercito withdrew his original motion of returning the full item to the Housing Committee with the recommendation for approval. Instead, he requested referral on this item as amended to the next Subcommittee meeting.

A friendly motion was made by Sparer to separate out the 10 pt. font issue and recommend that part to the full Housing Committee. (No vote)

A motion was made by Ejercito, seconded by Sparer, to separate the bail bond issue and refer that to the next Subcommittee meeting and refer the rest as amended to the next Housing Committee meeting for approval. The motion passed by voice vote/other.

A motion was made by Ejercito, seconded by Brink to separate discussion of 32.07(7) as amended from discussion on the bail bonds. The motion passed by voice vote/other.

A motion was made by Ejercito, seconded by Hassel, to recommend to the Housing Committee to approve the recommended change to 32.07(7), to have the 10 pt. font language added. The motion passed by voice vote/other.

A motion was made by Ejercito, seconded by Hassel, to refer discussion on the bail bond amounts and discussion of overall fines of items not specified to the next subcommittee meeting. The motion passed by voice vote/other.

SUMMARY:

Item 2 of Legislative File No. 15526 sent back to Housing Committee with recommendation.
Items 1, 3 & 4 of Legislative File No. 15526 referred to next meeting of Landlord & Tenant Issue Subcommittee.

Notes:

1 HOUSING COMMITTEE 10/07/2009

Action Text: Brende Hofer registered in opposition to File 15526 (did not wish to speak).
Nancy Jensen registered in opposition to File 15526.
Tom McKenna registered neither in support nor opposition.

The Housing Committee only addressed Item #2 in Legislative File 15526 – change to 10 point font. A motion was made by Schumacher, seconded by Ejercito to recommend to Council to approve Item #2 only on Legislative File 15526 (“...in a minimum of ten-(10) point font...”).

Roll Call Vote:

Ayes: Brink, Broadnax, Day, Ejercito, Hassel, LeMahieu, Maniaci, Munson, Porterfield, Rosenberg, Schumacher, Sparer, Villacrez, Wilcox

Excused: Bosben-Gebhardt

Notes:

1	LANDLORD AND TENANT ISSUES SUBCOMMITTEE	10/15/2009 Table	Fail
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Action Text: Nancy Jensen registered in opposition of Legislative File 15526.
Taylour Johnson registered in support of Legislative File 15526.

A motion was made by Ejercito, seconded by Sparer, to recommend approval of Legislative File 15526 to the full Housing Committee.

A motion to amend was made by Ejercito, seconded by Brink, to strike “Failure to provide complete “Tenant Rights and Responsibilities” to tenant at or prior to signing of rental agreement (32.06(2)(a)) and Failure of landlord to deliver possession of dwelling unit to tenant (32.12(6)) from Legislative File 15526. Send those back to City Attorney. The motion on the amendment passed by voice vote/other.

Roll Call Vote on Original Motion:

NOS: Bosben-Gebhardt & Brink
AYES: Ejercito & Sparer

The motion failed.

A motion was made by Ejercito, seconded by Sparer, to return Legislative File 15526 to the full Housing Committee with no recommendation. This motion was withdrawn by Ejercito.

A motion was made by Ejercito, seconded by Sparer, to Table Legislative File 15526 (without prejudice) The motion FAILED by the following vote:

Notes: A motion was made by Ejercito, seconded by Sparer, to recommend approval of Legislative File 15526 to the full Housing Committee.

A motion to amend was made by Ejercito, seconded by Brink, to strike “Failure to provide complete “Tenant Rights and Responsibilities” to tenant at or prior to signing of rental agreement (32.06(2)(a)) and Failure of landlord to deliver possession of dwelling unit to tenant (32.12(6)) from Legislative File 15526. Send those back to City Attorney. The motion on the amendment passed by voice vote/other.

Roll Call Vote on Original Motion:

NOS: Bosben-Gebhardt & Brink
AYES: Ejercito & Sparer

The motion failed.

A motion was made by Ejercito, seconded by Sparer, to return Legislative File 15526 to the full Housing Committee with no recommendation. This motion was withdrawn by Ejercito.

A motion was made by Ejercito, seconded by Sparer, to Table Legislative File 15526 (without prejudice) The motion FAILED by the following vote: NOS: Brink & Bosben-Gebhardt; AYES: Ejercito & Sparer; EXCUSED: Maniaci & Hassel.

Excused: 2 Bridget R. Maniaci and Detria D. Hassel

Ayes: 2 Philip P. Ejercito and David R. Sparer

Noes: 2 Curtis V. Brink and Alicia Bosben Gebhardt

- 2 HOUSING COMMITTEE 11/04/2009
Action Text: Referred to December 2, 2009 Meeting (ran out of time).
Notes:

- 2 HOUSING COMMITTEE 12/02/2009 RECOMMEND TO COUNCIL WITH THE FOLLOWING RECOMMENDATIONS - REPORT OF OFFICER
Pass
Action Text: Nancy Jensen, Apartment Association of South Central Wisconsin, registered in opposition to the Bail Bond Schedule.

A motion was made by Sparer, seconded by Maniaci, to amend Legislative File 15526 by removing items 1, 3 & 4 in their entirety, leaving only item 2. The motion passed by voice vote/other.

A motion was made by Sparer, seconded by Ejercito, to RECOMMEND TO COUNCIL TO ADOPT WITH THE FOLLOWING RECOMMENDATIONS - REPORT OF OFFICER: Approval of Legislative File 15526 with Item 2 only. Remove items 1, 3 & 4 in their entirety. The motion passed by the following vote:
Notes: A motion was made by Sparer, seconded by Ejercito, to RECOMMEND TO COUNCIL TO ADOPT WITH THE FOLLOWING RECOMMENDATIONS - REPORT OF OFFICER: Approval of Legislative File 15526 with Item 2 only. Remove items 1, 3 & 4 in their entirety. The motion passed by the following vote:

YES: Brink, Broadnax, Day, Ejercito, LeMahieu, Maniaci, Porterfield, Sparer & Villacrez
EXCUSED: Bosben-Gebhardt, Munson, Rosenberg & Wilcox
ABSENT: Hassel & Schumacher
Absent: 2 Detria D. Hassel and Michael Schumacher
Excused: 4 Greg L. Rosenberg; Brian A. Munson; Judith M. Wilcox and Alicia Bosben Gebhardt
Ayes: 9 Susan K. Day; Philip P. Ejercito; Keith G. Broadnax; Victor E. Villacrez; Tobi L. LeMahieu; Curtis V. Brink; David C. Porterfield; David R. Sparer and Bridget R. Maniaci

- 2 COMMON COUNCIL 11/09/2010 Adopt with Recommendation(s) Pass
Action Text: A motion was made by Ald. Clear, seconded by Ald. Cnare, to Adopt with Recommendation(s). The motion passed by voice vote/other.
Notes: Approval of Item 2 only. Items 1, 3 and 4 are removed in their entirety.

Text of Legislative File 15526

Fiscal Note

There may be a minor increase in General Fund revenues derived from fines, but no significant fiscal impact is anticipated.

Title

SUBSTITUTE Amending Secs. 32.05(3), 32.07(7)(b), 32.14(1) and 1.08(3)(a) of the Madison General Ordinances to require that tenants be informed in a notice of a specific font of their right to inspect photographic evidence and increasing various penalties.

Body

DRAFTER'S ANALYSIS: This ordinance requires that a notice be in a 10-point font that the tenant will be provided a copy of the photographs documenting any damage, waste or neglect of the premises being charged to the tenant if such notice is requested by the tenant. This ordinance also creates a bail deposit for 3rd offenses for a landlord removing or altering locks, removing doors or windows, or confiscating personal property in lieu of rent. It also creates bail deposits for existing ordinance provisions for a landlord entering a tenant's premises to show property without 24 hour notice, entering a tenant's premises without announcing presence, failure to provide complete "Tenants Rights and Responsibilities" to tenant, confiscation of a

tenant’s personal property, eviction of a tenant without following proper eviction procedure, and failure of a landlord to deliver possession of a dwelling to a tenant. This ordinance also increases the penalty range for violations of Chapter 32.

The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (3) of Section 32.05 entitled “Tenants Rights to Privacy and Exclusive Possession” of the Madison General Ordinances is amended to read as follows:

“(3) Any person who violates any provisions of this section or fails to comply with any of its requirements shall, upon conviction thereof, be subject to forfeiture of not more than ~~one five thousand dollars (\$4,000 5,000)~~ and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.”

2. Subdivision (b) of Subsection (7) of Section 32.07 entitled “Security Deposit Refund Procedures” of the Madison General Ordinances is amended to read as follows:

“(b) A written, itemized statement showing the specific reason or reasons for the withholding of the deposit or any portion of the deposit, applicable receipts and estimates including the necessary hours and the wage rate for the work done or to be done any rent credit due, and a notice, in a minimum of ten-(10) point font, that the tenant will be provided a copy of the photographs documenting any damage, waste or neglect of the premises being charged to the tenant if requested by the tenant in writing within 30 days of receipt of the notice. Upon receipt of a timely request, the landlord has 30 days to provide the tenant a copy of the photographs maintained by the landlord under Sec. 32.07(14)(a) documenting the damage, waste or neglect. The landlord shall not be held responsible for the inability of the Post Office to complete delivery of a first class letter.”

3. Subsection (1) of Section 32.14 entitled “Penalties” of the Madison General Ordinances is amended to read as follows:

“(1) Any violation of any section of Chapter 32 of the Madison General Ordinances for which there is not provided a specific penalty shall be subject to a forfeiture ~~of not less than sixty dollars (\$60) nor not more than six hundred dollars~~ two thousand dollars (\$600 2,000) upon conviction. Each day of violation shall be construed as a separate offense.”

4. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by creating and amending therein the following:

“Removing or altering locks furnished with premises without consent of tenant.	32.05(1)(a)	\$600, 1st; \$1000, 2nd; <u>\$1800, 3rd</u>
Removing doors or windows without consent of tenant.	32.05(1)(b)	\$600, 1st; \$1000, 2nd; <u>\$1800, 3rd</u>
Confiscating tenants’ personal property in lieu of rent.	32.05(1)(c)	\$600, 1st \$1000, 2nd; <u>\$1800, 3rd</u>
<u>Entering tenant’s leased premises to show property for sale or lease without at least 24 hours notice.</u>	<u>32.05(1)(e)</u>	<u>\$600</u>
<u>Entering tenant’s leased premises without announcing presence and without identifying self.</u>	<u>32.05(1)(f)</u>	<u>\$600</u>
<u>Failure to provide complete “Tenant Rights and Responsibilities” to tenant at or prior to</u>	<u>32.06(2)(a)</u>	<u>\$600</u>

signing of rental agreement.

<u>Confiscation of personal property by landlord</u>	<u>32.12(3)</u>	<u>\$600, 1st;</u>
<u>without a proper lien agreement.</u>		<u>\$1000, 2nd;</u>
		<u>\$1800, 3rd</u>

<u>Eviction of a tenant other than by eviction</u>	<u>32.12(5)</u>	<u>\$600, 1st;</u>
<u>procedure specified in Wis. Stats. ch. 799.</u>		<u>\$1000, 2nd;</u>
		<u>\$1800, 3rd</u>

<u>Failure of landlord to deliver possession of</u>	<u>32.12(6)</u>	<u>\$600, 1st;</u>
<u>dwelling unit to tenant.</u>		<u>\$1000, 2nd;</u>
		<u>\$1800, 3rd"</u>

EDITOR'S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved, provided the penalty range is increased.