

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED _____

REFERRED _____

Creating Section 32.18 of the Madison General Ordinances to establish the Landlord and Tenant Best Practices Certification Program.

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Date: July 12, 2017

SPONSOR: Alder Wood

DRAFTER'S ANALYSIS: This proposal creates a voluntary certification program for landlords to agree to follow certain Best Practices for landlord and tenant relations. A landlord who obtains and maintains the certification shall have the right to advertise that the landlord is Best Practices Certified by the City of Madison. The proposal also creates a procedure for decertification of a landlord and an appeal procedure for a landlord who is decertified. The program will be administered by the Building Inspection Unit.

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

Section 32.18 entitled "Landlord and Tenant Best Practices Certification Program" of the Madison General Ordinances is created to read as follows:

"32.18 LANDLORD AND TENANT BEST PRACTICES CERTIFICATION PROGRAM.

- (1) Statement of Purpose. Recent actions by the State of Wisconsin have restricted the City's ability to enforce standards that address the City's goals of equitable landlord-tenant relations, communication between landlords and tenants and resolution of disputes between landlords and tenants. In order to address these issues, the City desires to establish a voluntary program allowing landlords to certify that they have met positive and constructive standards for landlord-tenant relations.
- (2) There is created a voluntary Landlord and Tenant Best Practices Certification Program in the City of Madison. This Certification Program shall be administered by the Building Inspection Division of the Department of Planning and Community and Economic Development. Landlords, who meet the Certification Standards provided in this Section, shall have the right to state that they are Best Practices Certified by the City of Madison, in advertisements, communications, marketing materials, signs and displays, in conjunction with internet sites and in other uses approved by the Building Inspection Unit.
- (3) Any landlord desiring to obtain the Best Practices Certification shall make application to the Building Inspection Division, upon a form to be provided by the Building Inspection Division. There shall be no fee for filing the application. The form shall indicate that in order to be eligible for certification, the landlord must agree to follow the best practices in sub. (a) and the requirements of sub. (4). The application form shall include a statement to be signed by the landlord, that the landlord agrees to abide by the Best Practices and that landlord agrees to include the Best Practices as an addendum to their lease.
 - (a) Best Practices.
The following twenty-one (21) Best Practices shall constitute required standards for landlord certification under the Best Practices Certification Program. The Building

Approved as to form:

Inspection Unit shall prepare and distribute a Best Practices Addendum form, containing all of the following 21 Best Practices which shall be signed by landlords and tenants participating in the program, and shall constitute an addendum to the lease between landlord and tenant.

1. A landlord or landlord's agent shall provide at least twenty-four (24) hours notice before entering upon a tenant's leased property, unless it is reasonably believed that entry is necessary to preserve or protect the premises from damage or destruction.
2. The landlord shall provide at least 24 hours notice, a reasonable time of entry and an estimated length of stay when showing the leased property to potential future tenants. The landlord and tenant may also mutually agree to shorter notice periods or a larger window of availability.
3. The landlord shall provide the tenant with written guest regulations, if such regulations exist.
4. The landlord shall provide the tenant with the Tenant's Rights and Responsibilities brochure at the beginning of the tenancy.
5. The landlord shall provide a new tenant with voter registration forms at the time the tenant takes possession of the residence.
6. The landlord agrees that late fees and penalties shall not exceed five percent (5%) of the periodic rent.
7. The landlord shall provide written reasons for denial of a rental application or for the non-renewal of a lease.
8. If the residence is subject to rent abatement, the landlord shall so inform successor tenants.
9. The landlord shall use written check in and check out forms.
10. The landlord shall photograph any damages found at the end of the tenancy and shall make the photographs available to the former tenant.
11. The landlord shall provide the outgoing tenant not only with an itemization of amounts withheld from security deposits, but also copies of receipts and estimates and hourly rate charges for work performed.
12. The landlord shall provide the tenant with a telephone number where the tenant may reach the landlord or the landlord's agent.
13. The landlord shall itemize any amounts withheld from an earnest money deposit.
14. The Rental Criteria used by the landlord shall be provided to the tenant at or prior to the time they are given a rental application.
15. A security deposit shall not exceed the equivalent of one month's rent, however the parties may mutually agree in writing to additional fees as a security deposit for pets or a waterbed.
16. A landlord shall not simultaneously hold a security deposit given by a tenant and a sub-tenant of the same rental premise unless the total of the deposits made by the parties does not exceed the equivalent of one month's rent.
17. A landlord shall disclose to a tenant any known defects which are potentially subject to rent abatement, whether or not notice of the defects has been received by the landlord from code enforcement authorities.
18. A landlord shall inform tenants that City ordinances prohibit smoking in the common areas of buildings which contain three or more rental units.
19. A landlord of a lodging house shall post, in a conspicuous place readily available to the occupants, the names and telephone numbers of two persons who may be contacted for emergency work.
20. A landlord shall not charge a prospective rental applicant a nonrefundable credit check fee.
21. A landlord shall, with the tenant, review and complete the form entitled "Smoke Alarm Requirements for Landlords and Tenants," which is produced and distributed by the City of Madison Fire Department.

- (b) The Addendum shall also contain language substantially similar to the following:
"The landlord hereby agrees to meet and maintain the following Landlord-Tenant Best Practices, and these Best Practices are

incorporated as an addendum to the lease between the parties, which lease is dated _____, 20__.

(4) Certification Standards.

- (a) No landlord shall be certified who is the owner of a rental property which has been designated as having an uncorrected rent-impairing violation or violations by publication of the address of the rental property in the official City paper, pursuant to Sec. 32.04 (2) MGO, within the twelve- (12) month period prior to the date of the completed application for certification under this Section is received by the Building Inspection Unit.
- (b) A landlord who holds the Best Practices Certification shall be decertified by the Director of the Building Inspection Unit, following the procedures provided in sub. (5), under either of the following conditions:
 - 1. The landlord is the owner of a rental property which has been designated as having an uncorrected rent-impairing violation or violations by publication of the address of the rental property in the official City paper, pursuant to Sec. 32.04 (2), within the preceding twelve- (12) month period, or
 - 2. The landlord has been found to have failed to follow any of the Best Practices standards contained in sub. 3(a).
- (c) The Building Inspection Unit shall annually by June 30th of each year review the practices of each certified landlord to determine if each certified landlord is in compliance with sub. (b).

(5) Investigation of Allegations Against Landlord.

- (a) A tenant, or an authorized representative of the tenant, who reasonably believes that their landlord has not complied with the Best Practices Certification Program requirements, may file a verified complaint with the Director of the Building Inspection Unit, on a form to be provided by the Building Inspection Unit, stating under oath the reasons why the tenant believes the landlord has not so complied. Upon receipt of such a verified complaint, the Director shall direct the staff of the Building Inspection Unit to investigate the allegations in the complaint. Upon receiving the results of the investigation, the Director shall make a determination as to whether the allegations are truthful. If the Director finds that the allegations are truthful, the Director shall inform the landlord and the complaining tenant of his/her decision and, subject to the right to cure the noncompliance herein and the right of appeal herein, the Director shall decertify the landlord from the program. A landlord who is decertified from the program shall lose the right to use the phrase "Best Practices Certified by the City of Madison."
 - 1. If the Director has a reasonable belief that a participating landlord has not complied with the Best Practices Certification Program requirements, the Director may commence an investigation under this sub. (5) without first receiving a verified complaint.
- (b) A landlord who holds a certification under this Section, is found by the Director to have not complied with the Best Practices Certification Program, and who has not had uncorrected rent impairing violations published for a property owned by the landlord pursuant to Sec. 32.04(2), in the past 12 months, shall have a sixty- (60) day period to cure the noncompliance. If the noncompliance is cured, then the landlord shall continue to be certified.

(6) Procedure for Review.

- (a) Written Determination. Any landlord, who hold a certification under this Section and has been found by the Director to be in noncompliance with the requirements of the Best Practices Certification Program, may request a written statement of reasons for a determination subject to the provisions of this section. Such request shall be in writing, and shall be filed within thirty (30) days after the person receives notice of the determination. The request shall be filed with the City Clerk and the Clerk shall immediately forward it to the Director. The requested written statement shall be approved by the Director, shall be dated, and shall be provided to the requester within thirty (30) days. It shall also inform the requester of procedures to be followed in seeking review.
- (b) The Director shall consider any revised application, or supplemental facts or argument supplied to him/her in writing, but is not required to provide an interview or

- hearing, although the Director is permitted to do so. Unless otherwise provided, the determination shall be in effect during the appeal process, if appeal is taken.
- (c) A landlord shall have the right to appeal the Director's findings under this Section, to the Landlord and Tenant Issues Committee for de novo review, by filing a written notice of appeal within thirty (30) days after the landlord receives notice of the Director's determination. The notice of appeal shall be filed with the City Clerk. The Committee shall hold a hearing within forty-five (45) days after the notice is filed with the City Clerk. The landlord shall be notified at least ten (10) days before the hearing.
 - (d) Hearing. At the hearing, the landlord and the director may be represented by counsel, may present evidence, and may call and examine witnesses and cross-examine witnesses of the other party. The Chair of the Landlord and Tenant Issues Committee shall act as the chair of the hearing and shall conduct the hearing, administer oaths to witnesses, and may issue subpoenas. The rules of evidence provided in Wis. Stat. § 227.45 for administrative proceedings shall be followed. The staff shall receive and mark all exhibits, and the staff shall record all of the proceedings on tape. If either of the parties requests a stenographic recording, the staff shall make the necessary arrangements but the expense shall be borne by the requesting party.
 - (e) Decision. Within thirty (30) days of the completion of the hearing and the filing of briefs, if any, the Committee shall issue a written decision stating the reasons therefor. The Committee shall have power to affirm or reverse the written determination, or to remand it to the agency or authority with instructions for reconsideration. Such orders shall be consistent with applicable law, and, except for remands, shall be final determinations for the purpose of judicial review.
- (7) Judicial Review.
- (a) Any party to a proceeding resulting in a final determination hereunder may seek review thereof by certiorari within thirty (30) days of receipt of the final determination. The court may affirm or reverse the final determination, or remand to the decision maker for further proceedings consistent with the court's decision.
 - (b) If review is sought of a final determination, the record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at the requester's expense. If the person seeking review establishes impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the municipality and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement of a transcript.
- (8) A landlord who has been terminated from the program, for noncompliance under sub. (4) may reapply after twelve (12) months from the date of termination.
 - (9) A landlord may voluntarily withdraw from the Best Practices Certification Program at any time."