



Legislation Text

File #: 32642, Version: 2

**Fiscal Note**

No appropriation is required.

**Title**

SUBSTITUTE CHARTER Creating Section 32.12(3) of the Madison General Ordinances relating to storage or disposition of personalty left by tenants.

**Body**

DRAFTER'S ANALYSIS: This proposal uses the City's statutory home rule powers to elect not to be governed by the current Wis. Stat. § 704.05(5). It provides that personal property is defined as electronic devices, including but not limited to computers, computer accessories, cell phones, cameras, televisions, radios, music players, memory cards or other electronic storage devices, bicycles, photo albums, letters, passports, driver's licenses or other government issued identification, prescription medication or prescription medical equipment or any other item which the landlord reasonably determines has an apparent value of at least \$50 or any other item that appears to have sentimental value. This personal property must be stored by the landlord for at least 6 months. The landlord may dispose of any items that are not defined as personal property. These items shall be photographed by the landlord's representative prior to disposition, and the photographs must be kept for six months and the photographs must be made available to the tenant. The proposal also adopts a state law provision that the subsection does not apply to self-storage facilities.

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

The City of Madison elects not to be governed by the provisions of Wis. Stat. § 704.05(5). This election is made pursuant to Wis. Stat. § 66.0101(4).

Subsection (3) entitled "Confiscation of Personal Property" of Section 32.12 entitled "Prohibited Practices" of the Madison General Ordinances is repealed and recreated as follows:

“(3) Storage or Disposition of Personal Property Left by Tenant.

- (a) For the purposes this Subsection, personal property shall be defined as electronic devices, including but not limited to computers, computer accessories, cell phones, cameras, televisions, radios, music players, memory cards or other electronic storage devices; bicycles, photo albums, letters, passports, driver's licenses or other government issued identification, prescription medication or prescription medical equipment or any other item which the landlord reasonably determines has an apparent value of at least fifty dollars (\$50), or any other item that appears to have sentimental value.
- (b) If a tenant removes or is removed from the premises and leaves personal property, as defined in sub. (3)(a), the landlord shall store the personal property for six (6) months. After that time, the landlord may dispose of the property in the manner that the landlord determines is appropriate, but the landlord shall promptly return the personal property to the tenant if the landlord receives a request for its return before the landlord disposes of it.
- (c) If a tenant removes from the premises and leaves items that are not defined as personal property in sub. (3)(a), the landlord may presume, in absence of a written agreement between the landlord and the tenant to the contrary, that the tenant has abandoned the property and the landlord may dispose of the abandoned items in any manner the landlord determines is appropriate.
- (d) Prior to the disposition of any abandoned item that is not defined as personal property in sub. (3)(a), the landlord or the landlord's agent shall photograph any item to be disposed of by the landlord, regardless of the apparent value of the item. The landlord shall retain such photograph or photographs for at least six (6) months. The landlord shall provide copies of all photographs to the tenant at tenant's last known mailing address, within thirty (30) days after tenant vacates the premises. In addition, the landlord shall permit the subject tenant to inspect or copy the photographs during the six-(6) month period that the photograph or photographs are retained by the landlord, upon at least twenty-four (24) hours notice from the tenant.

- (e) Inapplicability to Self-Storage Facilities. This Subsection does not apply to a lessee of a self-storage unit or space within a self-storage facility under Wis. Stat. § 704.90.”
- (f) This subsection, Sec. 32.12(3) is a Charter Ordinance and shall be effective upon sixty (60) days from passage and publication, subject, however, to the referendum procedures of Wis. Stat. § 66.0101(5).

EDITOR'S NOTE:

Sec. 32.12(3) currently reads as follows:

- “(3) Confiscation of Personal Property. No landlord may seize or hold a tenant’s personal property, or prevent the tenant from taking possession of the tenant’s personal property, except as authorized under Secs. 704.05(5) and 779.43, Wis. Stats., or a written lien agreement between the landlord and the tenant. A lien agreement, if any, shall be executed in writing at the time of the initial rental agreement. The landlord shall include the lien agreement in a separate written document entitled “NON-STANDARD RENTAL PROVISIONS” which the landlord provides to the tenant. The landlord shall specifically identify and discuss the lien agreement with the tenant before the tenant enters into any rental agreement with the landlord. The lien agreement is not effective unless signed or initialed by the tenant. Any proceeds from the disposition of personal property that, together with a security deposit, exceed one month’s rent shall be due the tenant.”