This document provides information about rights and responsibilities for tenants and landlords in the City of Madison. The numbers in the text refer to statutes, regulations or ordinances that are the source of the information and are listed below. This is not legal advice. Citations are for guidance and may not apply to your situation. If you have a specific legal question, you should consult an attorney or one of the groups or agencies listed.

- Wisconsin Statutes, (Wis. Stats.) Chapters 704 (Tenant/Landlord), 710 (Mobile Homes) & 799 (Small Claims)
- Department of Agriculture, Trade and Consumer Protection Regulations (ATCP), Chapter 134 (Residential Rental) & 125 (Mobile Homes)
- Madison General Ordinances (MGO), Chapter 32 (Tenant/Landlord); Chapter 39 (Fair Housing)
- Dane County Ordinances (DCO) Chapter 31 (Housing Discrimination)

**Rental Laws & Regulations**

**General Tips for Avoiding Rental Problems**

- Keep a rental file which includes the lease, addendums, check-in/check-out forms, copies of letters/emails/texts to and from your landlord, housing inspection reports, notices to enter, and any documentation you have of repairs or security deposit problems.
- Request and keep a receipt for rent payments or pay by check.
- Keep notes/phone log with dates and names of any contacts with the landlord regarding problems.
- Get or put promises from the landlord in writing.
- Contact your landlord when a problem arises.

**Tenant Responsibilities**

- Be aware of the terms of the lease and follow those terms.
- Pay rent on time.
- Keep the apartment in a clean, proper, and sanitary condition.
- Notify the landlord as soon as possible when a repair is needed.
- Repair or pay for the repair of damages caused by negligence or improper use.

**Application Process & Discrimination**

- If the landlord denies an application, they must give the tenant written reasons for the denial by the end of the third day after the denial, unless the tenant has indicated on the application that they do not wish to receive a written explanation. MGO 32.08(5)

- A landlord may not deny you housing because of your sex, race, religion, color, national origin, ancestry, age, handicap/disability, marital status, source of income, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, familial status, student status, inclusion in a domestic partnership, status as a victim of domestic violence, genetic identity, or citizenship. A landlord, however, may obtain and use information regarding income, occupation, rental history, credit information, publicly available court and arrest records, or social security numbers in making rental decisions. MGO 39.03(6), Wis. Stats. 66.0104, 106.50(1)

- You cannot be denied housing solely because you have applied for or currently receive Section 8, and your lease cannot be terminated early solely because you start receiving Section 8 assistance in the middle of your tenancy. However, a landlord may use information about income in making rental decisions such as denying housing. MGO 39.03(d), (5) & 39.03(e), Wis. Stats. 66.0104

- If you pay an application fee (deposit, or earnest money) and your application is rejected or withdrawn before approval, the landlord must return the money at the end of the next business day. If the application is approved, the money should be returned or applied to rent or the security deposit. If your application is denied, you have the right to appeal. MGO 39.03(4)

- If there is a change in the owner or other person authorized to manage, collect rent and maintain the premises, and someone in Wisconsin authorized to accept legal papers and notices in writing on the lease unless the landlord lives in the building and it is four units or less. MGO 32.08(1), ATCP 134.04(1)

- Building the landlord must disclose if there is an emergency contact information posted in a readily accessible conspicuous place. MGO 27.042(2)

- Before entering into a rental agreement, the landlord must disclose all of the following conditions affecting habitability, whether the apartment lacks hot/cold running water, has heating equipment that isn't safe or can't maintain heat at least 67 degrees year-round; lacks electricity or has an unsafe electrical system; has plumbing and sewage systems not in good working condition; has any other conditions that constitute a substantial health or safety hazard. MGO 32.08(2)

- Before accepting any earnest money or security deposit, a landlord must disclose uncorrected building code violations if he has actual knowledge of the violation and it presents a significant threat to the tenant's health or safety. Wis. Stats. 704.07(2)(d)

- The landlord must disclose outstanding code violations for which the landlord has actual notice, and must provide copies of any official notices regarding outstanding code violations, copies of rent abatement decisions affecting the unit or common areas, the occupancy limits, the zoning code's family definition and any off-street parking requirements. The landlord shall advise the prospective tenant in writing of the successor tenant's right to abate rent at the time the lease is signed. MGO 32.04(7), 32.08(2)

- The landlord must disclose which utilities the tenant is responsible for. If the utilities are not separately metered, the landlord must determine how much each tenant pays for utilities. ATCP 134.04(3), MGO 32.08(2)(b)

**Required Landlord Disclosures**

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Rental Agreements (Leases)

- Once signed by all parties, the lease binds all parties. There is no "backout period." To modify a written lease agreement, all parties must agree to the changes in writing.
- Many written leases require that each resident is responsible for meeting all the terms of the rental agreement even if the residents do not do so. This is called "joint and several liability."
- Be careful in your agreement. In a written lease agreement, an oral or unrecorded agreement does not give you proof of the agreement. Write a letter to the landlord with your understanding of the agreement if you have trouble getting it in writing. Make sure to keep a copy. Wis. Stats. 704.03(1).
- Periodic tenancies (commonly referred to as "month-to-month" leases) are considered a rental agreement. This rental agreement doesn't specify beginning or end dates and with the "period" being the time interval between the rent payments. For example, if the period is monthly, this is the period of your agreement. The lease can change after any period if you give sufficient written notice (for month to month tenants at least 28 days prior to the next time rent is due. If you intend to move out and have a month-to-month lease, you must provide at least 28 days written notice to the agreement. Wis. Stats. 704.01(2), 704.19(3), 704.21(2).

Illegal Rental Agreement Clauses

- The lease is void and unenforceable if it requires you to pay the landlord's attorney and legal fees. A judge may order you to pay these fees after a trial. MGO 32.11(5), Wis. Stats. 704.44(4e).
- Requires you to pay rent before the date it is regularly due. MGO 32.11(2), Wis. Stats. 704.44(3m).
- Waives the landlord's right to terminate a rental unit in a fit or habitable condition and/or to maintain the premises during the tenancy. MGO 32.11(7), Wis. Stats. 704.44(8).
- Authorizes the termination of the tenancy "if a crime is inoperable. Tenants are not to tamper with, remove, after damage, or make the smoke alarm inoperable. The landlord must provide written notice of the lease violation. The notices must be given a copy at the time of agreement. MGO 32.11(1), Wis. Stats. 704.44(2m).

Copies of Rental Agreements & Receipts

- You must be allowed to inspect the rental agreements and any rules or regulations that apply before you are asked to sign the agreement or pay any fees, and you must be given a copy at the time of your agreement. MGO 32.06(1), ATCP 134.033(1).
- The landlord is required to provide receipts for rent, security deposits, and any other charges paid in cash. If a security deposit or earnest money is paid by check with a notation describing the purpose of the check, the landlord must return the deposit within 7 days of the notice to vacate or the expiration of your lease. MGO 32.11(3), Wis. Stats. 704.44(7).
- Contains a provision that, if enforced, would violate the tenant's constitutional rights. MGO 32.05, Wis. Stats. 704.44(8).
- You require to pay the cost of carpet cleaning or shampooing unless there is damage beyond "normal wear and tear." MGO 32.11(7), Wis. Stats. 704.44(8).

Security Deposits

- Your security deposit or partial deposit with a written itemized list of the damages or defects charged to you. For any deductions must be mailed within 21 days of the termination of the rental agreement. MGO 32.07(2), ATCP 134.06(2)(f).
- If you move out early, and the unit is not re-rented, they can return your deposit up to 21 days after the end of the lease. LTC 134.06(2)(g).
- Routine painting or carpet cleaning, if there is no unusual damage caused by tenant abuse, cannot be deducted from security deposit. ATCP 134.06(3)(c).
- Cashing a check for partial payment does not mean you waive your rights to the full amount owed. MGO 32.07(7)(d), ATCP 134.06(2)(e).

Late Fees

- Late fees cannot be charged, except as specifically provided under the rental agreement. LTC 134.09(8)(a).
- A landlord cannot require you to pay late fees of more than 5% of a month's rent. MGO 32.12(11).
- A landlord cannot charge a late fee to a tenant who pays to a late fee. All payments shall be applied to rent before being applied to a late fee. LTC 134.09(8)(b)(c), MGO 32.12(1).

Rental Agreements (Leases)

- The landlord must provide you with a Check-in when you commence occupying the premises. Wis. Stats. 704.08.
- The landlord must give seven (7) days after moving in to note anything that was dirty, damaged, broken or missing when you moved in. Wis. Stats. 704.08.
- Return the completed form to the landlord. If you want items repaired, make a separate written request. The landlord must inform you that you may request a written list of the physical damages or defects charged to the previous tenant's security deposit. MGO 32.07(5), ATCP 134.06(1).

Tenant’s Right to Privacy & Exclusive Possession

- A landlord cannot change the locks on your apartment as a means of forcing you to move or to limit your access to your property. MGO 32.15(6), Wis. Stats. 704.17.
- A landlord cannot confiscate any of your property unless they have a lien that you agreed to in a "non-standard rental agreement. MGO 32.05(c)(1), MGO 32.12(3), ATCP 134.09(4).
- A landlord must give you 12 hours notice prior to entering your home. If the landlord fails to give you 24 hours notice for entry for other purposes, entry must be made at reasonable times, and entry can be refused if you give permission to do so. MGO 32.01(3)(d), ATCP 134.09(2).
- A landlord may regulate guests by stating a guest policy in the lease. They may not prohibit all guests. MGO 32.05(1)(g).

Repairs

- If repairs are needed, contact your landlord and give them a reasonable time to make repairs. If they do not fix the problem, call the Building Inspector at (608)266-4551. MGO 32.05(2), MGO 32.12(2).
- If your landlord fails to repair or properly maintain your apartment, you may terminate the lease in accordance with the Building Inspection Division, you may be entitled to abate/reduce rent for repair or to make repairs to be made to the unit and subtract that amount from their rent. The tenant must give official notice to the landlord that they intend to use these self-help procedures at least ten days prior to commencing repairs. Qualified professionals, as required by law, must do repairs and the cost of repairs may be deducted from your security deposit. MGO 32.17(2).

Subletting and Breaking a Lease

- Most leases require the permission of the landlord prior to subletting. If you sublet your apartment, or the entire apartment, you are still responsible for all terms of the original agreement, unless all parties (including the landlord) agree in writing to terminate the lease or change any other terms. Sublet agreements should always be put in writing. Wis. Stat. 704.09(1).
- If you need to break your lease, and choose not to sublet, the landlord is responsible for finding a new tenant if you stop paying your rent. The landlord must make reasonable effort to find a new tenant. Reasonable effort means those steps that the landlord would have taken to rent the premises provided these are in accordance with local practice. However, you will be responsible for the rent owed until a new tenant is found. Wis. Stats. 704.29.
- The landlord must notify you if the property is in foreclosure. If the landlord fails to do so, the lease may be voidable, or monetary penalties may apply, depending on your situation. In certain circumstances, you may be able to stay until the end of your lease. The federal "Protecting Tenants at Foreclosure Act," Public Law 111-22 Sec. 701 - 704 (2009), applies to all foreclosure sales after the law was signed on May 20, 2009 until December 31, 2014.

Renovation

- A landlord cannot evict you or threaten to do so because, you have contacted the Building Inspection Division. However, the landlord can assert a right under state or local law, filed a complaint with Consumer Protection or Building Inspection, started a lawsuit or joined a tenant's union, neighborhood watch or neighborhood association. Actions by the landlord are presumed retaliatory if taken within six months of a tenant taking action or one of these acts, unless the landlord can prove otherwise. MGO 32.15, 32.12(4), Wis. Stats. 704.45, ATCP 134.09(5).

Eviction

- The first step in the eviction process is for the landlord to give you written notice of the lease violation. The notices will vary depending upon your type of lease, the type of violation and the violation notices you have received. Generally, a tenant with a year-long lease will have the right to fix the problem the first time and stay in the apartment. If you get one of these notices contact the landlord right away and try to fix the problem. Wis. Stats. 704.17.
- Your landlord cannot force you to leave the apartment unless they have given you a written notice from a judge. ATCP 134.08(1), 134.09(7).
- You have the right to appear in small claims court to contest the eviction notice. The landlord must prove to the court that you have violated the lease and that they are entitled to evict you. If you are evicted for non-payment, or if a default judgment is issued because you did not appear in court, the Sheriff is the only person who can remove you from the unit. The Sheriff will give a date and time, and they will remove. This forced removal can be very costly and you can be held responsible for all the costs of moving and storing your property as well as additional unpaid rent if you get evicted. The landlord has the duty to minimize these costs by trying to re-rent the apartment. Wis. Stats. 704.29, 799.44.

Leases & Automatic Renewal

- Your lease may have an automatic renewal clause; however, your landlord cannot enforce such a clause unless they give you a written notice of the pending automatic renewal or extension at least 15 days before the lease expiration date. MGO 32.07(9), Wis. Stats. 704.12(2).
- If you "hold over," or stay beyond the expiration date of your lease, you are no longer protected by the lease agreement, the landlord may sue you in court for damages. If the judge finds that you remained in possession of the property without the landlord's consent after the lease term expiration, a lease expiration notice is a lease, the landlord may sue you in court for damages. Wis. Stats. 704.25(1), 704.27.

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- A landlord cannot charge a late fee to a tenant who pays to a late fee. All payments shall be applied to rent before being applied to a late fee. LTC 134.09(8)(b)(c), MGO 32.12(1).