

The Progressive City: Ordinances and Policy Selections from the City of Madison, WI



Credit: Nina Goffi, <http://ninagoffi.blogspot.com/>

**Compiled by District 2 Alderperson Bridget Maniaci
June 18, 2012**

"Wisconsin's capital is like a girl who aces all her finals, paddles a mean J-stroke, knows how to tap a keg, and doesn't realize she's a knockout."

-*Outside Magazine* "The New American Dream Towns"
August, 2005



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Written and compiled by Alderperson Bridget Maniaci

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Lake City Lake: An Introduction to Madison

Centered on an isthmus that is home to the Wisconsin State Capitol and the University of Wisconsin-Madison, the City of Madison has been graced by good geography and strong history. The University and State Government have historically lent the city a stable and educated employment base, insulating the City from larger market fluctuations and manufacturing disinvestment that has created a dense and thriving city core. With world-renowned research and scholarship taking place mere blocks from City Hall, Madison's municipal government has long been a hotbed of legislative adventures and trials.

After a period of time in the 2000s when the Common Council was frequently entrenched into political factions, in recent years a more depoliticized and policy-oriented body has been elected and, with Mayoral leadership and city staff who are environmentally conscious and efficiency oriented, a spirit of best-practices and innovation has permeated City Hall, creating a series of creative and progressive policy initiatives worth sharing.



Credit UW-Madison, University Communications

Urban Beekeeping Ordinance

Urban beekeeping has grown exponentially in recent years and is seen as promoting sustainable agriculture. A balance between progressive urban agriculture and community standards between neighbors is necessary when crafting legislation. Madison implements its ordinance through its Zoning Code, and is allowed for under its ordinance chapter on Licenses and Permits. No honeybees may be kept in any manufacturing zoning district, office zoning districts, the C4 zoning district and any commercial zoning district where the use of the property is not exclusively residential. Citizens apply through an application and \$10 licensing fee. Honeybee licenses must be obtained annually, prior to April 1 of each year, or within 30 days of acquiring honey bees. For residential, agricultural and applicable commercial zoning districts the following standards apply:

1. Hives may be located only on lots with residential use.
2. No more than six (6) hives may be located on a lot.
3. No hive shall exceed twenty (20) cubic feet in volume.
4. No hive shall be located closer than three (3) feet from any property line.
5. No hive shall be located closer than ten (10) feet from a public sidewalk or twenty-five (25) feet from a principal building on an abutting lot.
6. A constant supply of water shall be provided for all hives.
7. A flyway barrier at least six (6) feet in height shall shield any part of a property line that is within twenty-five (25) feet of a hive. The flyway barrier shall consist of a wall, fence, dense vegetation or a combination thereof and it shall be positioned to transect both legs of a triangle extending from an apex at the hive to each end point of the part of the property line to be shielded.
8. The owner, operator, or tenant obtains a license under Sec. 9.53, MGO.
9. The applicant for the license notifies all residents of the property and the owner or operator of the property if the applicant is not the owner or operator.

Please see

<http://www.cityofmadison.com/dpced/bi/obtaining-a-city-of-madison-beekeeping-license/108/> for more information.

Contact: Matt Tucker,
City of Madison Zoning Administrator,
mtucker@cityofmadison.com ,
(608) 266-4635



Credit: Phil Ejercito for *Isthmus*

Backyard Chickens Ordinance

Even before beekeeping, the desire to keep chickens within the City was being carried forward by a number of residents. In 2004 the City took steps to formally permit the keeping of 4 hens per lot (no roosters allowed). Chicken licenses must be obtained annually, prior to January 1 of each year, or within 30 days of acquiring chickens. The license year begins January 1 and ends on the following December 31, with a fee of \$10. Through state law, the hen owners must also register with the Wisconsin Department of Agriculture, Trade and Consumer Protection. This registration is free and available to be completed online. The required coops are considered an accessory building within the zoning code and its placement and size are governed by the Zoning Code. Additionally, the ordinance require the following:

Keeping of up to four (4) chickens on a lot with up to four dwelling units, provided that:

- i. No person shall keep any rooster.
- ii. No person shall slaughter any chickens.
- iii. The chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
- iv. No enclosure shall be located closer than twenty-five (25) feet to any residential structure on an adjacent lot.
- v. The owner, operator, or tenant obtains a license under Sec. 9.52, MGO.
- vi. The applicant for a license notifies all residents of the property and the owner or operator of the property if the applicant is not the owner.

Backyard chickens have become very popular since their ordinance debut. The Tenney-Lapham Neighborhood Association sponsors an annual walking “Tour de Coops” to enable the public at large to see neighbors’ coop-building and chicken raising efforts. 2011’s tour had an estimated 700 people walk the neighborhood to view participants’ efforts. The 2012 tour has 12 participants.

Please see:

<http://www.cityofmadison.com/dpced/bi/obtaining-a-city-of-madison-chicken-license/65/> for more ordinance information.

<http://www.danenet.org/tlna/web-data/pdfs/2012chickentour.pdf> for more Tour de Coop information.

Contact: Matt Tucker, City of Madison Zoning Administrator,
mtucker@cityofmadison.com , (608) 266-4635



Mobile Grocery Stores

In May 2012, Mayor Paul Soglin expressed a concern for identified food deserts in neighborhoods within the City that have a high level of social service needs and limited public transportation options. Understanding the difficulties that many Madison families experience accessing fresh fruits and vegetables when they do not have or cannot afford transportation to a super market, the City worked with an enthusiastic local grocer that came forward with a concept for creating accessibility to healthier grocery options by establishing zoning changes that would allow for this type of vending.

Unlike other cities' experiences with private enterprises that have established similar drive-up or delivery services, Madison's ordinances only allow for a non-profit entity to conduct this type of vending. Such a structure arose out of a sensitivity of affordable price levels that those with limited incomes and of disadvantaged neighborhoods could afford.

A mobile grocery store is defined within the Zoning Code as "A vehicle designed for over-the-road hauling that has been modified to sell groceries inside and that moves among sites on zoning lots on a daily basis," and meets the following requirements:

- a. It is owned and operated by a non-profit entity.
- b. There is a principal use on the zoning lot.
- c. The location on the zoning lot shall be approved by the Traffic Engineer and the Zoning Administrator.
- d. A waiver or modification of the off-street parking requirements for the principal use on the zoning lot has been obtained.
- e. Hours of operation shall be between 7:00 a.m. and 8:00 p.m."

Fresh Madison Market owner Jeff Mauer put the cost of the mobile truck at \$125,000 and has successfully raised the money to launch the project. It will be debuting at the Boys & Girls Club of Dane County June 27th.

Contact: Matt Tucker, City of Madison Zoning Administrator,
mtucker@cityofmadison.com , (608) 266-4635

Contact: Jeff Mauer, owner Fresh Madison Market, (608) 287-0000



Community Gardens on Public Land

The City of Madison created a formal city committee on Community Gardens following a 1999 Action Plan, "Growing a Stronger Community with Community Gardens: An Action Plan for Madison," to serve in an advisory capacity to the Mayor and the Common Council in identifying the potential roles for community gardens in neighborhood improvement efforts, in identifying possible City actions that can facilitate such efforts and acting as a sounding board for citizen concerns regarding community garden issues. The Board of Park Commissioner has ultimate jurisdiction on the approval and location of community gardens located on public space. Gardens have been located in public parks, old railway right-of-ways and school land.

In order to manage the logistics of developing over 50 community garden sites in the Madison area with 30 acres of garden plots, the City set up a partnership with local non-profit Community Action Coalition to handle, among other tasks:

- Insurance coverage
- Gardener registration and plot fees
- Liaison to city departments who provide services to gardens including land, wood chips, compost & water
- Outreach, information clearinghouse, referrals for new gardeners
- Initial tilling and assistance acquiring garden materials
- Leadership development and organizing to help the gardeners grow as community leaders
- Support for eligible new gardens
- Initial tilling, and assistance acquiring garden materials
- Conferences & workshops at the gardens
- Food Pantry donation coordination
- Translation for Hmong, Spanish, Khmer and English-speakers
- Support for youth garden projects & gardeners with physical disabilities
- Access to donated seeds and plants



More than 2,000 households now have plots in the community gardens, an increase of 87% over the past 8 years. Additionally, CAC's goal is to provide at least 100,000 lbs of fresh locally grown produce to families experiencing poverty each year.

Please see <http://www.cityofmadison.com/residents/communitygardens/index.cfm> or <http://www.cacsw.org/gardens.php> for more information.

Contact: Joe Mathers, Community Action Coalition for South Central Wisconsin
joem@cacsw.org, or call (608) 246-4730 ext. 212.

Going for Platinum: Bicycling as a Transportation Vision

Background

In the fall of 2006 under former Mayor Dave Cieslewicz, The City of Madison took its decades-long commitment to bicycles and bicycling infrastructure to another level and embarked with a mission to receive the “Platinum Designation for Bike Friendliness,” the top title offered by the League of American Bicyclists for cities.

The Platinum Biking City Planning Committee was formed with the overall goals of achieving the Platinum designation level through the League of American Bicyclists’ Bicycle Friendly Communities program, and putting forward a roadmap for Madison to become the best city in the country for bicycling. The Committee's report was adopted by the Common Council on April 8, 2008.

In addition to funding from the City, the report was supplementally funded by bicycling Trek Corporation, Pacific Cycle (Schwinn), Saris Cycling Group, and Planet Bike -firms all located within or near to Madison. The proximity of these firms’ location to Madison has enabled many creative public-private partnerships of innovative infrastructure and bicycling systems to become a functional reality.

Budget & Staffing Priorities

Within the City budget, the pedestrian and bicycling portion of the City Engineering capital budget has ranged annually between \$4 and \$12 million for infrastructure projects, which is roughly 10% of resources spent on streets annually in the City, (\$45-\$60 million). Additionally, the Traffic Engineering budget has roughly \$500,000 in supplemental funds for staffing “Bicycling and Pedestrian Services” and many aspects of bicycling policy & infrastructure are overseen specifically by the Pedestrian, Bicycle & Motor Vehicle Commission, separate from the Transit & Parking Commission.

Bike Boulevards

A bicycle boulevard is a low speed street which has been optimized for bicycle traffic. Bicycle boulevards discourage cut-through motor vehicle traffic but allow local motor vehicle traffic. They are designed to give priority to cyclists as through-going traffic. They are intended to improve cyclist comfort and/or safety.

Madison has implemented three Bike Boulevards to date with an introductory to moderate level of infrastructure adjustments including reversing existing stop signs, additional pavement markings, mid-intersection traffic circles, contra-flow bike lanes and, the first of its kind in the State of Wisconsin, a Pedestrian & Bicyclist Hybrid Beacon traffic signal.



Hybrid Beacon Traffic Signal

A Pedestrian & Bicyclist Hybrid Beacon traffic signal is a new tool to help pedestrians and bicyclists cross busy streets. This new beacon is different from a standard traffic signal in that the major street's signal is generally dark, or off, and there is no traffic signal for cross street motorists so cut through traffic is not encouraged on the side street. Pedestrians and bicyclists on the side street each have their own signals.



Bike Corrals & Parking Meter Bike Racks

Madison's crowded downtown has seen such a proliferation of bicycling riding that increasing available bike rack parking has at certain high-traffic areas either become scarce or is unavailable to install due to limited sidewalk terrace. The city has developed several creative solutions to facilitate additional bike parking.



To combat areas of the city where there is not enough space to provide bicycle parking in the terraces and other off-street locations, the Bike Corral provides space for the parking of 5-10 bicycles in what had been a one-car on-street automobile parking space. Businesses in the area are consulted on the corrals' locations and assist in their maintenance (mostly in agreeing to weekly sweep the on-street area). The racks are removed in November to allow for winter snow plowing.

In 2011 the City of Madison Parking Utility started replacing traditional coin-operated parking meters with multi-space meters (see page XXX). This provided an opportunity to use the posts of the new parking meters to be fitted with a custom piece of galvanized metal that serves as both bike rack and public art.

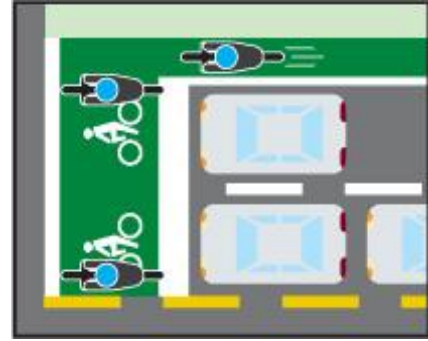


Credit: Schievephoto.photoshelter.com

Bike Boxes & Bike Lane Conflict Areas

In September 2011, the State Smart Transportation Initiative found that Madison was tied nationally for first place with Portland, Ore. for the percentage of residents – 6 percent – that bike to work in the nation's largest cities. With such a presence of bicycle commuters on public streets, bicyclist-motorist conflicts are likely to occur. To mitigate these conflicts, the City has installed several infrastructure concepts.

Bike boxes are rectangles, painted on the pavement at intersections, which move car traffic back several feet from the crossing and allow space for bicyclists to position themselves in front of waiting traffic. Bike boxes are intended to reduce bicycle and car collisions, especially those between drivers turning right and bicyclists going straight by providing greater visibility. They have been generally respected by motorists and experienced a good success of usage, although soon after their initial inception in 2010 Republican State Legislator Steve Nass, who represents an assembly district an hour's drive from Madison denounced the bike boxes - intended to minimize conflict between drivers and bicyclists - as the product of Madison's anti-car culture and threatened legislation to ban the European-style, made-with-tape pavement markers. However Rep. Nass had no support for his efforts, and the boxes continue to be used and expanded to additional locations within Madison.



Bike Lane Conflict Areas are found on busy city streets where the visible green colored pavement used for bike boxes are also similarly applied to the bicycle lane at intersections where bicyclist-motorist crashes have taken place. The coloring provides a reminder to motorists to look for bicyclists when crossing streets or when making a turn, and serves as a reminder to bicyclists to watch for these conflicts as well.



Ride the Drive

Ride the Drive is a reoccurring community event in place since 2009 that for a day turns Madison's signature streets into a public promenade that is open to bikers, walkers, rollerbladers, and those out to share in the experience and fun atmosphere. These popular events have consistently drawn over 20,000 families, friends, and recreation eager to ride, walk and skate on the route, enjoy live music, food, and participate in various activities at fun stopping points along the way. It is a city event that occurs 2-3 times a year organized through the Parks Department, with many local community partners facilitating the event's success.



For more information on Ride the Drive, please visit <http://www.cityofmadison.com/parks/ridethedrive/>

For more information on bicycling infrastructure, please visit <http://www.cityofmadison.com/bikeMadison/>

Contact: Arthur Ross, City of Madison Pedestrian-Bicycle Coordinator
aross@cityofmadison.com, (608) 266-6225

B-Cycle: Urban Bike Share Program

Madison joins such cities as Boston, Washington, Boulder, Denver, Chicago and San Antonio to launch a bike-share program. Implemented in tandem with the 2011 Congress for New Urbanism Conference, the company, owned by Trek and with sponsorship from Humana Health Care, now has 35 B-cycle stations with 350 bikes throughout Madison's downtown and greater-isthmus area.



Originally envisioned to have City financial support for its first 3 years, when turning a profit was unexpected, the City renegotiated with Trek shortly after the 2011 mayoral election and is now completely privately-run with no City subsidy or assistance.

The city had to change a number of ordinances to accomplish this program, including the unusual step of introducing a Charter Ordinance since State prohibited signs or advertisements in the highway right-of-way with limited exceptions. The City Attorney interpreted this law as restricting the City's ability to allow signs or advertisements on City-sponsored bicycle-sharing facilities located in the right-of-way (including the sidewalk) as proposed by B-cycle, which was an important component to its financial success. However the City was able to navigate this situation by exercising the City's constitutional "home rule rights" under the Wisconsin State Constitution to adopt a Charter Ordinance that creates a limited exception for advertisements on City-sponsored bicycle-sharing facilities located in the highway right-of-way.

The City also amended ordinances to create a new permit procedure that allows for the placement of City-sponsored bicycle-sharing facilities in the right-of-way, on other City land through the granting of a bicycle-sharing facility privilege and through an exemption to the nuisance provisions that placement these of City-sponsored bicycle-sharing facilities on park lands, greenways, and bike paths would not be an encroachment violation.



The owner of program must apply to the Planning for the bicycle-sharing facility privilege. Once the application is approved, the City and the program owner must enter into a bicycle-sharing facility privilege agreement that covers all of the facility locations on right-of-way or other City land and shall include terms covering liability insurance requirements, indemnification of the City, removal of the facilities, restoration of the facility locations, sign contents, and annual permit fees.

Contact: Brian Conger, B-Cycle; brian.conger@madisonbicycle.com

Plastic Bag Recycling Ordinance

Madison is now one of the few cities in the country that collects plastic bags at the curb for recycling. This program accepts all sorts of plastic bags including the retail bags, produce bags, newspaper bags, many product bags including bread and toilet tissue, as well as clean sandwich bags. Most of these bags are not covered by the outright bag bans put in place in other communities, such as Los Angeles.

The City's Recycling Coordinator has taken the position that outright banning plastic bags accomplishes little in the number of bags that find their way into the landfill and since they can be recycled, that's the approach worth taking. Bag bans also fall hardest on those who can least afford reusable bags. Plastic bags are the easiest way for these residents to carry their food longer distance by bus or in the rain. The plastic bags also end up serving as trash bags in most poorer households.

The City originally set up drop off points at area grocery stores and businesses to collect bags for recycling, but has abandoned that approach since they are now able to recycle the plastic bags as part of their normal curbside recycling program. The drop-off approach cost \$17,800 annually to operate, although \$35,000 was originally authorized. Most area supermarkets have continued to operate their plastic bag drop off collection programs as they were independent of the City of Madison program.

The ordinance language is included here:

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

1. Amending Paragraph 2. entitled "Owner Responsibility" of Subdivision (b) entitled "Applicability and Enforcement of Ordinance" of Subsection (7) entitled "Separation of Solid Waste Required" of Section 10.18 entitled "Collection of Refuse and Recycling of Waste" as follows:

"2. Owner Responsibility. Every owner or operator of multi-family dwellings, commercial, retail, industrial, governmental, and public service facilities shall be responsible for maintaining an effective means for tenants to comply with the requirements of this subsection (7), except for subdivision (f). In addition each owner or operator shall at the commencement of a tenant's move to the premises and each 6 months thereafter notify the tenants of the City and County recycling requirements."

2. Creating Subdivision (f) entitled "Plastic Bags" of Subsection (7) entitled "Separation of Solid Waste Required" of Section 10.18 entitled "Collection of Refuse and Recycling of Waste" as follows:

"(f) Plastic Bags.

Purpose. Each year, it is estimated that the average American uses 330 plastic bags. Hence, Madison residents will use approximately 74,794,500 plastic bags in 2009. Based upon national averages, only 0.6% of those bags (roughly 448,000) will be recycled, and the rest will eventually end up in the Dane County landfill or as sources of land and water based litter. Plastic bags are generally not biodegradable and instead rely upon photodegradation to break down. This is problematic in landfills where light is not able to break down the plastic film, leading to an estimated five hundred (500) year breakdown period. Furthermore, while plastic bags will break down into smaller toxic parts when in water, these smaller parts can be harmful to fish, birds, amphibians, and other water based organisms. While plastic bags are generally not biodegradable, they can be recycled and used for durable building and construction 1. products, fencing and deck materials, and new plastic bags. In the Madison area, there is a market for the recycling of clean plastic bags, and many

retailers who provide these bags offer recycling bins for use by customers. By banning the disposal of non-contaminated recyclable plastic bags, the City hopes to reduce the negative impacts on the environment associated with plastic bags to save space in the County landfill and protect our lands and waters from the negative impacts associated with plastic bags.

2. Definitions. For the purposes of this subdivision, the following definitions apply:
 - a. Contaminated plastic bag means any plastic bag that has been in direct contact with, and remains soiled by, organic or non-organic materials. Plastic bags that contain any solid waste are contaminated for the purposes of this ordinance.
 - b. Plastic bag shall mean any bag intended for the transportation, storage, or protection of goods that is made, in part, of plastic film. A plastic bag is not the same as a plastic container, as that term is used elsewhere in this subsection.
 - c. Recyclable plastic bag means any plastic bag that is able to be recycled, or bundled for recycling purposes, in the Madison area, and includes all those types of plastic bags set forth by the Street Superintendent or designee.
3. Every person disposing, or attempting to dispose of non-contaminated recyclable plastic bags in the City of Madison shall separate such items from all other solid waste materials and not place them in containers for disposal with other refuse, garbage or recycling materials.
4. Non-contaminated recyclable plastic bags shall be separated and recycled in accordance with the rules, procedures and schedules specified by the Street Superintendent, or such items may be disposed of in any other lawful manner, including through merchant provided drop off locations. No person shall mix or permit the mixing of non-contaminated recyclable plastic bags with garbage or other solid waste in violation of such City rules, procedures or schedules.
5. Non-contaminated recyclable plastic bags subject to this provision, and capable of being recycled, include:
 - a. Low density polyethylene bags (LDPE #4). These bags are made of plastic films with high clarity, and moderate stretch and strength characteristics. Such bags include thicker newspaper bags and bread bags.
 - b. Linear low density polyethylene bags (LLDPE #4). These bags are made of plastic films with moderate clarity that are stretchy and have a slightly tacky feel. Such bags include clear and thin newspaper bags, as well as dry cleaning bags.
 - c. Medium density polyethylene bags (MDPE #4). These bags are made of plastic films with moderate clarity, and poor stretch and strength characteristics. Such bags include consumer packaging bags such as toilet paper and paper towel packaging.
 - d. High density polyethylene bags (HDPE #2). These bags are made of plastic films with some opacity, that are crinkly to the touch, have low stretch and high strength characteristics, and are easily torn. Such bags include most grocery bags and retail bags.
6. Enforcement. No enforcement of this subdivision by the City will occur until the Streets Superintendent establishes a City-sponsored recycling program for non-contaminated recyclable plastic bags; such program shall be approved by the Common Council by resolution no later than September 1, 2009."

3. 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 amending therein the following:

"Offense Ord. No. Deposit

<u>Disposal of Non-contaminated Recyclable Plastic Bags</u>	<u>10.18(7)(f)2.</u>	<u>\$100, 1st within 12 mos.</u>
		<u>\$200, 2nd within 12 mos.</u>
		<u>\$400, 3rd & subsequent w/in 12 mos."</u>

Contact: George P. Dreckmann, City of Madison Recycling Coordinator

Gdreckmann@cityofmadison.com ,(608) 267-2626

Filtered Lake Swimming Enclosure

An especially dangerous form of algal blooms, blue-green algae that is caused from fertilizer and agricultural runoff can sicken and even kill someone who comes in contact with them. Over the past few years, the levels of algae in the Madison area lakes have been so severe beaches have been frequently closed. Floating algae scums have become an unfortunately common sight along Madison's shorelines due to political and budgetary inaction on regulatory measures by the county government, which has jurisdiction over the lakes and watershed.



In the summer of 2010, City of Madison Engineering along with the Wisconsin DNR, UW-Madison, and Dane County successfully installed booms surrounding several beaches. The purpose of the booms is to keep the algae scums, directed by lake currents, from coming into contact with swimming areas and ultimately reducing the number of beach closers. The booms only extended part way into the water and the swimming area water was not substantially improved, so the engineering went back to the drawing board.

In 2011, booms were again installed at several beaches. In addition, a similar boom but with a curtain that extends to the lake bottom was installed at Brittingham Beach. This enclosure project was more advanced and unique by consisting of an underground and underwater treatment system that pumps water inside the swimming area through filtration and UV disinfection. The results showed dramatic improvement in water quality and water clarity that is hoping to be replicated at more beaches in subsequent years.

Since both forms of booms have been installed at City beaches they have been very successful and there have been no beach closures to date, which community members are very excited about.

Contact: John Reimer
City of Madison Engineering
jreimer@cityofmadison.com
(608) 266-4094



Terrace Rain Garden Program

In 2005 former Mayor Dave Cieslewicz announced an initiative to establish 1,000 rain gardens within the City of Madison to facilitate storm water management and conservation. To date, the City has on record 498 gardens within City limits. To help facilitate this infrastructure, City Engineering is currently offering rain gardens in terraces in conjunction with street reconstructions and resurfacing projects, where they are appropriate.

Streets need to have terraces that meet the following criteria to be considered eligible:

1. Terraces must be at least 10 feet wide;
2. There must be at least 15 feet in length available for a rain garden;
3. Trees must be at least 10 feet from the edge of a rain garden;
4. Terraces cannot be too steep (in any direction);
5. There cannot be issues with high groundwater;

As long as these criteria are met, City Engineering will offer cost-sharing to homeowners who are interested in participating in this volunteer program. They have continued to strive to improve and streamline this program each year, and the interest has continued to grow. In 2011, the City will more than double the number of terrace rain gardens, for a total of 79 installed since 2005.

For planting options, homeowners have one of two choices. They may either pay a portion of the total cost of hiring a contractor to plant the garden, or they may plant the garden on their own. If a homeowner chooses to use a contractor, their plant selection is limited to one of several city-designed rain garden planting designs. If a homeowner would rather design their own rain garden planting plan, the total cost of plants and all labor is their responsibility.



Even if a contractor is used to plant the garden, all maintenance following the initial planting is the responsibility of the homeowner.

Should a homeowner sell their house or decide that they no longer want a terrace rain garden, the gardens are designed so that they can be filled in by the homeowner and reseeded with turf grass.

Contact: Genesis Steinhorst, City of Madison Engineering
gsteinhorst@cityofmadison.com, (608) 266-4059

Community Prosecutor

In the last ten years, there have been increased instances of houses or other locations within the City of Madison that would qualify as nuisances. These houses have a large number of police calls, building inspection violations, drug use and other associated problems. These locations often are the first signs of a deteriorating neighborhood, and if not stemmed, may lead to very troubled areas of the City.

Prior to the 2006 creation of a Community Prosecutor, the Madison Police Department (MPD) and the Office of the City Attorney (OCA) were able, in some instances, to put together coordinated efforts aimed at nuisance locations. However, these efforts could not be sustained over time, primarily due to a lack of resources in the OCA. Increased obligations on the time of the assistant city attorneys had made it difficult to maintain this necessary, coordinated effort.

The number of appearances by OCA attorneys in municipal court rose from 8,405 in 2003, to 13,973 in 2005, an increase of over 60%, without the addition of any staff. While the MPD had added 32 commissioned positions in the period from 1999-2005, the OCA had only added a one-half time assistant city attorney, while support staff in the OCA had decreased due to budget limitations.

A Community Prosecution/Nuisance Abatement program was enacted to target problem properties early in the process of criminal activity, or other activity such as building code violations, and brings the coordinated resources of the City to bear on the problem. The position is budgeted as an entry-level prosecutor and enabled OCA to free up the time of more senior attorneys. The OCA dedicates at least 75% of the time of one ACA to a coordinated effort of the MPD, OCA, Building Inspection, and other city agencies.

To be effective, both the Police Department and the OCA must work closely and quickly to deal with problem properties. The work of other City departments, such as building inspection, must be coordinated. The use of coordinated civil prosecutions to solve crime-related problems has become much more successful in recent years. The Milwaukee City Attorney's Office has three Assistant City Attorneys working on a similar program in Milwaukee. Such programs have also been successful in New York and Oakland.

Contact: Jennifer Zilavy, Assistant City Attorney
jzilavy@cityofmadison.com, (608) 266-4511

Chronic Nuisance Ordinance

In partnership with the Community Prosecutor position, this ordinance is a tool the City can use to quickly and effectively abate nuisance activity that is occurring on a specific premises. The ordinance places responsibility for abating nuisance activity on the premises owner and holds the premises owner accountable for what happens on, or in association with, his or her property. The primary focus of this ordinance is non-owner occupied residential properties where the landlord has been unresponsive to the City's efforts to work with the landlord to abate the nuisance activities associated with his or her premises, especially in issues of drugs and violence.

There are several ways in which a premise is declared a public nuisance:

1. If there are three (3) or more enforcement actions (which basically means arrest) in ninety (90) days for nuisance activities occurring on or in association with a premises;
2. If a Dane County Circuit Court has signed a search warrant for a premises based upon probable cause to believe that possession, manufacture, distribution or delivery of a controlled substance has occurred on or in association with the premises;
3. If the premises has had one (1) enforcement action associated with the premises resulting from the manufacture, distribution or delivery of a controlled substance; or
4. If the premises has had five (5) building inspections occurring within a one (1) year period and said calls resulted in enforcement action (referral to City Attorney for prosecution).

The ordinance allows the City to recover the cost of Police and/or Neighborhood Preservation and Inspection response to repeated occurrences of nuisance activities at the same premises from its owner. The ordinance also penalizes premises owners who fail to respond to the chronic public nuisance notice and/or fail to, in good faith, abate the nuisance activity, up to and including the city taking possession and ownership of the property.

Madison looked at chronic nuisance ordinances from around the country and the City ordinance is very similar to Milwaukee. Wausau, Green Bay, Appleton and Portland, Oregon also have chronic nuisance ordinances that were similar in nature.

The ordinance as passed and currently amended is attached to this document as Appendix A.

Contact: Jennifer Zilavy, Assistant City Attorney
jzilavy@cityofmadison.com, (608) 266-4511

Secondhand Dealer Ordinance

This ordinance requires that secondhand dealers (including secondhand jewelry dealers and pawnbrokers) compile electronic databases of sales and purchases and that they submit the data to the Police Department each day in a format approved by the Police Department. Previously only paper records of transactions were kept and the city was required to manually compile lists of such items. A database exemption has been made for audio tapes, CDs, records, videotapes, DVDs or other similar audio or audio-visual media so they do not need to include the title of the work nor the name of the author or artist.

Additionally, purchases by secondhand dealers are prohibited from persons who are intoxicated or impaired or from persons under the age of 18. The law also requires that product serial numbers must be recorded by a secondhand dealer when such serial numbers are available and when serial numbers are not available, a photograph or a video of the item must be made if the transaction is made by a pawnshop or secondhand jewelry dealer. A photograph or video of the seller of the goods must also be made by a pawnshop or secondhand jewelry dealer.

The holding period for computer or video games subject to electronic reporting by a secondhand article dealer has been reduced to seven days. The law creates penalties for a seller who sells or pawns property not owned by the seller and requires that sellers provide proper identification. Secondhand Article Dealers and Secondhand Jewelry Dealers licensed by other Wisconsin municipalities must comply with investigation and fingerprint requirements, electronic and other recordkeeping, labeling, receipt requirements and holding periods required of those licensed by the City of Madison. Such Dealers licensed in another Wisconsin jurisdiction will also be required to post a \$2,000 bond for the observation of all municipal ordinances. The ordinance shall become effective on February 1, 2012. License fee increases sunset on June 30, 2013.

Program revenue has been estimated at \$26,700 for the increased license and forfeiture fees, and carries a half-year staffing cost of \$19,590 in salary with \$7,110 in corresponding benefits to provide for an additional position to oversee the program, scheduled to start mid-2012. Additionally, the City of Madison is partnering with PawnAmerica to offset the cost of entering into a contract with LeadsOnline to access their electronic database of transactions. PawnAmerica is covering the \$21,750 cost.

After its initial adoption, the ordinance drew the attention of the coin club community for conflicts it posed with their trade shows. A current amendment is proposed that creates an exemption from precious metal dealers licensing for dealers at a bona fide coin show sponsored by a nonprofit coin club which has been in existence for at least one year, where bullion is not sold, the exhibitors are primarily hobbyists, and an

entrance fee is charged. The proposal clarifies that a holder of a secondhand license issued by the City of Madison may occasionally operate from a temporary location, but that all recordkeeping and other ordinance requirements apply to such an operation. The proposal creates a definition of "precious metal" using language formerly contained in the definition of "precious metal dealer."

The ordinance as passed and with pending amendments (shown underlined) reads as follows:

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

1. Subdivision (d) of Subsection (2) entitled "License Required" of Section 9.24 entitled "Licensing of Secondhand Dealers" of the Madison General Ordinances is amended to read as follows:

"(d) 1. A secondhand dealer includes a person who is engaged, from a temporary location in the City of Madison, in the business of selling or purchasing articles under this Sec. 9.24. Such persons shall obtain a secondhand dealer's license under this Sec. 9.24. For the purposes of this sub. (d), a temporary location shall include, but shall not be limited to, a hotel or motel meeting room or guest room.

2. A secondhand jewelry dealer includes a person who is engaged in the business of selling or purchasing jewelry from a temporary location in the City of Madison and such person shall obtain a secondhand jewelry dealer's license under this Sec. 9.24. For the purposes of this sub. (d), a temporary location shall include, but shall not be limited to, a hotel or motel meeting room or guest room.

3. A precious metal dealer includes a person who is engaged in the business of selling or purchasing precious metal from a temporary location in the City of Madison and such person shall obtain a precious metal dealer's license under this Sec. 9.24. For the purposes of this sub. (d), a temporary location shall include, but shall not be limited to, a hotel or motel meeting room or guest room.

34. For the purposes of this sub. (d), it shall be prima facie evidence that a person is engaging in the activities covered by this sub. (d), if the person places advertisements, listings or notices in any media offering to sell or purchase items subject to this Section and provides a location where such purchases may be made within the City of Madison or the advertisement provides a telephone number or an internet or other electronic communication address, through which appointments are made for such transactions to be conducted within the City of Madison."

2. Subsection (3) entitled "Definitions" of Section 9.24 entitled "Licensing of Secondhand Dealers" of the Madison General Ordinances is amended by amending therein the following: "Precious metal means sterling silverware, gold or silver coins, gems, bullion or other items made in whole or in part from gold, silver, platinum or any metal, mineral or gem customarily regarded as precious or semiprecious.

Precious metal dealer means any person who engages in any transaction of purchasing, selling, receiving or exchanging secondhand jewelry or precious metal, sterling silverware, gold or silver coins, gems, bullion or other items made in whole or in part from gold, silver, platinum or any metal, mineral or gem customarily regarded as precious or semiprecious. A holder of a precious metal dealer license issued by the City of Madison does not need to obtain a separate secondhand jewelry license in order to purchase, sell receive or exchange secondhand jewelry. A precious metal dealer license is not required for a transaction involving the buying or selling of collectible coins at a bona fide coin show that meets all of the following criteria:

1. The coin show is sponsored by a nonprofit club that has been in existence at least one year,

2. The coin show consists of multiple exhibitors, the majority of whom do not buy and sell coins as their primary occupation.

3. Bullion is not bought or sold at the coin show, and

4. An admission or entrance fee is charged to enter the show.

Secondhand article dealer means any person who engages in the business of purchasing, selling, including consignment selling, or exchanging secondhand articles except when engaging in any of the following:

1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show, a convention or an auction.
2. Any transaction entered into by a person while engaged in a business as a pawnbroker or secondhand jewelry dealer for which the person is licensed under Sec. 9.24(1), MGO, or under Wis. Stat. § 134.71 or under an ordinance adopted pursuant thereto.
3. Any transaction entered into by a person while engaged in the business of junk collector, junk dealer, auctioneer or scrap processor as described in Wis. Stat. § 70.995(2).
4. Any transaction while operating as a charitable organization or conducting a sale the proceeds of which are donated to a charitable organization.
5. Any transaction between a buyer of a new article and the person who sold the article when new which involves any of the following:
 - a. The return of the article.
 - b. The exchange of the article for a different, new article.
6. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
7. Any transaction as a seller of a secondhand article which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.
8. Any transaction entered into by a person while engaged in a business of smelting, refining, assaying or manufacturing precious metals, gems or valuable articles if the person has no retail or purchasing operation open to the public.
9. Any transaction between a buyer of a new article and a seller of new articles who accepts an occasional secondhand article in trade.

Secondhand jewelry dealer means any person who engages in the business of any transaction consisting of purchasing, selling, including consignment selling, receiving, or exchanging secondhand jewelry except for the following:

1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show, a convention or an auction.
2. Any transaction with a licensed secondhand jewelry dealer.
3. Any transaction while operating as a charitable organization or conducting a sale the proceeds of which are donated to a charitable organization.
4. Any transaction between a buyer of new jewelry and the person who sold the jewelry when new which involves any of the following:
 - a. The return of the jewelry.
 - b. The exchange of the jewelry for different, new jewelry.
5. Any transaction as a purchaser of secondhand jewelry from a charitable organization if the secondhand jewelry was a gift to the charitable organization.
6. Any transaction as a seller of secondhand jewelry which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.
7. Any transaction entered into by a person while engaged in a business of smelting, refining, assaying or manufacturing precious metals, gems or valuable articles if the person has no retail operation open to the public and does not purchase the precious metals, gems or valuable articles from the general public.
8. Any transaction between a buyer of new jewelry and a seller of new jewelry who accepts occasional secondhand jewelry in trade."

3. Subdivision (c) of Subsection (4) entitled "Application and Fees" of Section 9.24 entitled "Licensing of Secondhand Dealers" of the Madison General Ordinances is amended to read as follows:

"(c) A separate license shall be obtained for each individual premises from which the business is operated except that the holder of a secondhand license issued by the City of Madison may occasionally operate from a temporary location in the City of Madison, provided that the holder of the license shall comply with all requirements of this Sec. 9.24 and shall store all items purchased and all records generated from such transactions at the holder's permanent licensed premise."
4. Introductory paragraph of Subdivision (b) entitled "Records" of Subsection (7) entitled "Restrictions and Requirements" of Section 9.24 entitled "Licensing of Secondhand Dealers" of the Madison General Ordinances is amended to read as follows:

"(b) Records. It shall be the duty of every license holder to keep a record of all articles, precious metals, and jewelry purchased by her/him and it is required that a detailed description be obtained of all property purchased. Said description shall contain such information as to identify said property correctly; and shall include type of property, serial number, model number, color description and purchase price of said property. The description need not include the title, artist or author of audiotapes, compact discs, laser discs, records, videotapes, digital video discs or other audio or audio-visual recording media. At the time of any reportable transaction other than a renewal, extension, or redemption, every secondhand dealer shall immediately record in English the following information by using a computerized record approved by the Police Department:"
5. Paragraph 7. entitled "Photographs" of Subdivision (c) entitled "Daily Reports to Police" of Subsection (7) entitled "Restrictions and Requirements" of Section 9.24 entitled "Licensing of Secondhand Dealers" of the Madison General Ordinances is amended to read as follows:

"7. Photographs. Each pawn, secondhand articles precious metal or second hand jewelry transaction shall include a color photograph or color video recording of each customer pawning, pledging, consigning, exchanging or selling an item or property, and every item or property pawned, pledged, consigned, exchanged or sold ~~without a unique serial or identification number permanently engraved or affixed.~~ Photographs shall be at least two (2) inches square and photographs and video recordings shall be time and date stamped so that they can be readily matched and correlated with all other records of the transaction. The photographs and video recordings shall be made available to the Police Department upon request. Items defined in Sec. 9.24(3), "Article," Line 16, are exempt from this photograph requirement."
6. Subdivision (a) of Subsection (2) entitled "License Required" of Section 9.24 entitled "Licensing of Secondhand Dealers" of the Madison General Ordinances is amended to read as follows:

"(a) Except as provided in subs. (b) and (c) below, no person shall carry on or operate within the City of Madison a business as a pawnbroker or a business for the purchase or sale of secondhand articles, ~~or~~ jewelry or precious metals without first having obtained a license therefor as hereinafter provided."

Contact: Captain Sue Krause, Madison Police Department
skrause@cityofmadison.com

Hardwired Mandatory Smoke Detector Ordinance

In 2009 after a string of tragic fires in older buildings, the Madison Common Council approved a change to the smoke alarm ordinance in the City of Madison that provided for the following:

- All residential buildings within the City of Madison, with the exception of owner-occupied single family homes shall have smoke alarms in place which meet one of the following requirements:
 1. Hardwired smoke alarm with a battery backup
 2. Currently installed hardwired smoke alarms with no battery backup shall be allowed to remain in service until such time as the device must be replaced in accordance with manufacturer instructions. Unless otherwise specified by the manufacturer, no smoke alarm shall remain in service longer than ten years.
 3. Smoke alarm powered by a non-replaceable, non-removable battery capable of powering the smoke alarm for a minimum of ten years.
- All residential buildings within the City of Madison, with the exception of owner-occupied single family homes shall have smoke alarms installed in the following areas:
 1. In each bedroom
 2. In each sleeping area
 3. Within six feet of each door leading to a bedroom or sleeping area of each unit
 4. On each floor of the building
- All owner-occupied single-family residences shall install smoke alarms that meet the criteria of this ordinance.
- Any smoke alarms that become inoperable between the date of this ordinance becoming effective and August 15, 2009 shall be replaced with smoke alarms that meet the criteria of this ordinance.
- All smoke alarms installed shall be installed in accordance with all applicable state building codes and NFPA 72 (current edition).
- The owner of any residential building shall replace the battery in hardwired smoke alarms that meet the criteria of this ordinance each time the lease is renewed or as recommended by the manufacturer, whichever time is shorter.
- Fire safety education is required for all tenants. Upon each new lease, and at least once every 12 months for continuing tenants, the owner shall provide tenants with fire safety educational materials as provided by the Madison Fire Department.

Since this ordinance has been enacted, the Fire Department has seen marked decreases in serious injuries and fatalities from fires. 2011 saw no fire fatalities within the City. This includes a fire in a pre-war building downtown where 27 residents were displaced by the two-alarm fire. The single fire fatality in the last four years occurred in August, 2010 when a woman died in a condominium fire on the City's north side.

Please visit the Fire Department's website at <http://www.madisonfire.org> for the full ordinance language or call (608) 266-4420 for further details.

Open Data Ordinance

A new ordinance making city data more accessible has been introduced at the Madison Common Council meeting on Tuesday, June 12, 2012. The ordinance establishes a process for agencies to publish most of the city's data or "data sets" through the city's website and make them available to the public on a self-service basis. Exceptions are made for information that is confidential or otherwise not subject to release under the public records law.

If adopted, Madison will be the first city in Wisconsin and one of first in the Midwest to codify an open data policy. This policy is believed to enhance Madison's commitment to a transparent government, harness the talents of civically-minded entrepreneurs, and improve government efficiency. By making these data sets easily accessible to developers, new innovations can be created that benefit the entire community. The Madison technology community, including software developers and other citizens would have the ability to utilize city data for creating new applications, including smart phone applications.

Madison's technology and entrepreneurship community has grown exponentially within the last year. New applications have been released by the City as well as the development community promoting Madison Metro Transit, the Dane County Farmer's Market, Fire Department services, and other local events.

As currently proposed, the ordinance is written as follows:

"3.72 PUBLIC ACCESSIBILITY TO MUNICIPAL DATA SETS.

- (1) Declaration of Policy. It is in the best interest of city that its agencies and departments make their data available online using open standards. Making city data available online using open standards will make the operation of city government more transparent, effective and accountable to the public. It will streamline intra-governmental and inter-governmental communication and interoperability, promote efficient solutions for government, advance innovative strategies for social progress, and create economic opportunities.
- (2) Definitions. As used in this ordinance:
 - "Agency" means any city office, department, division, or agency.
 - "Data" means final versions of statistical or factual information:
 1. In alphanumeric form reflected in a list, table, graph, chart or other non-narrative form, that can be digitally transmitted or processed; and
 2. Regularly created or maintained by or on behalf of and owned by an agency that records a measurement, transaction, or determination related to the mission of an agency. Such term shall not include information provided to an agency by other governmental entities, nor shall it include image files, such as designs, drawings, maps, photos, or scanned copies of original documents. Nothing in this ordinance shall be deemed to prohibit an agency from voluntarily disclosing information not otherwise defined as "data" in this subdivision.
 - "Department" means the Information Technology Department.
 - "Determination" means any final decision made by an agency with respect to a person, including, but not limited to:
 1. Eligibility for services or benefits;

2. Issuing a permit;
3. Registration, certification and licensing; and
4. Liability for civil and criminal penalties.

"Measurement" means to quantify by means of comparison to a reference standard any characteristic of an observable event, occurrence or object.

"Open standard" means a technical standard developed and maintained by a voluntary consensus standards body that is available to the public without royalty or fee.

"Public data set" means a comprehensive collection of interrelated data that is available for inspection by the public in accordance with any provision of the Wisconsin Public Records Laws (Wis. Stats. §§ 19.31-19.37) and the Madison Public Records Ordinance (Sec. 3.70, MGO) and is maintained on a computer system by, or on behalf of, an agency. Such term shall not include:

1. Any data set or portion thereof to which an agency may deny access pursuant to the public records laws or any other provision of a federal or state law, rule or regulation or local law;
2. Any data set that contains a significant amount of confidential data pursuant to the preceding subsection and where removing such data would impose undue financial or administrative burden;
3. Data that reflects the internal deliberative process of an agency or agencies, including but not limited to negotiating positions, future procurements, or pending or reasonably anticipated legal or administrative proceedings;
4. Data stored on an agency-owned personal computing device, or data stored on a portion of a network that has been exclusively assigned to a single agency employee or a single agency owned or controlled computing device;
5. Materials subject to copyright, patent, trademark, confidentiality agreements or trade secret protection;
6. Proprietary applications, computer code, software, operating systems or similar materials; or
7. Employment records, internal employee-related directories or lists, and facilities data, information technology, internal service-desk and other data related to internal agency administration.
8. Legacy Data. Any public data set that, due to its size or complexity, or due to technology constraints, cannot be made available on the internet, shall be classified as legacy. Agencies shall make best efforts to avoid placing public data sets into the legacy classification.

"Technical standard" means the common and repeated use of rules, conditions, guidelines or characteristics for products or related processes and production methods, and related management systems practices; and

1. The definition of terms;
2. Classification of components;
3. Delineation of procedures;
4. Specifications of dimensions, materials, performance, designs or operations;
5. Measurement of quality and quantity in describing materials, processes, products, systems, services or practices;
6. Test methods and sampling procedures; or
7. Descriptions of fit and measurements of size or strength.

"Transaction" means any interaction between an agency and any person related to the mission of an agency.

"Voluntary consensus standards body" means a domestic or international organization that develops and maintains a technical standard that utilizes a transparent deliberative process, permits the participation of any party, and achieves general consensus, although not necessarily unanimity, of the participating parties, including a process for attempting to resolve any differences in viewpoint.

(3) Availability of Municipal Data Sets.

(a) Compliance Date and Annual Reports. By no later than September 30, 2013 and thereafter, the public data sets that agencies make available on the Internet shall be accessible through a

single web portal that is linked to the city's website. Each agency shall be responsible for identifying and publishing data sets. The Department shall be available to agencies for consultation and technical support only. The Department shall not be responsible for identifying or publishing data sets. By December 31, 2013 and annually thereafter, if an agency cannot or will not make all of its publicly available data sets available through the City's website, the agency shall file a written report with the Department and with the Common Council setting forth which public data set or sets that it is not making available, the reasons why it cannot or will not do so and the date by which the agency expects that any such public data set or sets will be available on the city's website.

- (b) Metadata: Such public data sets shall have metadata (information about the data set) made available to the public through the single web portal. The Department shall define the content and format of metadata, and shall provide all agencies with a template for metadata.
- (c) Technical Standards. Such public data sets shall be made available in accordance with technical standards published by the Department and shall be in a format that permits automated processing and shall make use of appropriate technology to notify the public of all updates.
- (d) Requirement to Keep Data Sets Current. Such public data sets shall be updated as often as is necessary, or at least annually, to preserve the integrity and usefulness of the data sets to the extent that the agency regularly maintains or updates the public data set.
- (e) Data Set Users May Remain Anonymous. Such public data sets shall be made available without any registration requirement, license requirement or restrictions on their use provided that the department may require a third party providing to the public any public data set, or application utilizing such data set, to explicitly identify the source and version of the public data set, and a description of any modifications made to such public data set. Registration requirements, license requirements or restrictions as used in this section shall not include measures required to ensure access to public data sets, to protect against unlawful abuse or attempts to damage or impair use of the web site, or to analyze the types of data being used to improve service delivery.
- (f) Data Sets Must Be Searchable. Such public data sets shall be accessible to external search capabilities.
- (g) Prioritizing Availability of Data Sets. Requests received for inclusion of particular public data sets shall be considered by agencies in making determinations as to priority for public data set inclusion. Agencies shall also consider the following factors in prioritizing access to data sets:
 1. Whether the data set can be utilized to increase agency accountability and/or responsiveness;
 2. Whether use of the data set could improve public knowledge of the agency, its missions, operations and resources;
 3. Whether it furthers the agencies missions;
 4. Whether the data set creates or has the capacity to create economic opportunities;
 5. Whether the data set responds to any need or demand identified by public consultation, and;
 6. The accuracy and completeness of the data set, i.e., preliminary, inaccurate or misleading data sets should not be published in order to avoid misleading or confusing the public. Such a determination regarding publication does not foreclose a requesters access to such data sets under either the Wisconsin Public Records Laws (Wis. Stats. §§ 19.31-19.47) or the Madison Public Records ordinance (Sec. 3.70, MGO).
- (h) Online Forum. The Department shall investigate the feasibility of establishing an on-line forum to solicit feedback from the public.
- (i) Preservation of Bandwidth. The Department may take reasonable measures to maintain bandwidth availability of the city's website.
- (j) Cost Benefit Determination. Each agency, in consultation with the Department, shall determine whether the costs of converting any publicly available data set to a searchable and publishable digital format outweigh any potential public benefit derived from such publication. If an agency determines that such costs outweigh the benefits of publication, then such data sets shall be maintained in their original format subject to inspection as provided by the Wisconsin Public

Records Laws (Wis. Stats. §§ 19.31-19.47) and the Madison Public Records ordinance (Sec. 3.70, MGO).

- (4) Open Data Legal Policy. a. The Department shall conspicuously publish the following Open Data Legal Policy on the city's website:

"Public data sets made available on the web portal are provided for informational purposes. The City does not warranty the completeness, accuracy, content or fitness for any particular purpose or use of any public data set made available on the web portal, nor are any such warranties to be implied or inferred with respect to the public data sets furnished therein.

The City is not liable for any deficiencies in the completeness, accuracy, content or fitness for any particular purpose or use of any public data set, or application utilizing such data set, provided by any third party.

Discontinuance of Data: The City reserves the right to discontinue availability of content on this website at any time and for any reason. The City reserves the right to claim or seek to protect any patent, copyright, trademark, or other intellectual property rights in any of the information, images, software, or processes displayed or used at this website. If the City claims or seeks to protect any intellectual property rights in any of the information, images, software, or processes displayed or used at this website, then this website will so indicate on the webpage on or from which such information, images, software, or processes are accessed. These Terms of Use do not grant anyone any title or right to any patent, copyright, trademark or other intellectual property rights that the City may have in any of the information, images, software, or processes displayed or used at this website.

Nothing in the City's Open Data ordinance or policies shall be construed to create a private right of action to enforce any of their provisions and therefore, any failure to comply with these provisions shall not result in liability to an agency."

Contact: Alderperson Scott Resnick, district8@cityofmadison.com

Texting Multi-Space Parking Meters

The City of Madison Parking Utility have installed multi-space meters in several locations in the downtown area. These meters provide the option to use a credit card as well as coins. The first two multi-space meters were put into service in September, 2010. Since their introduction, the City of Madison now has 85 multi-space meters operational that cover about 700 spaces, while about 800 spaces are covered by traditional coin-operated single-space meters. Another 15 multi-space meters will be installed within the next year.

Additionally, the vendor of Madison's system Metric Parking of Mount Laurel, N.J. has enabled their program software to allow for users to enter their cell phone numbers and get a text when their paid parking time is nearly over and gives users the option of authorizing additional time to be added to their metered parking spot. The fee for users to add parking time will be 45 cents. The Parking Utility believes that overall parking ticket revenue will likely fall from enabling text messages, but is willing to accept that trade off because they'd rather have satisfied customers who have a positive experience using the multispace meter system.

Contact: City of Madison Parking Utility, (608) 266-4761.

Appendix A ~ Chronic Nuisance Ordinance

25.09 CHRONIC NUISANCE PREMISES.

(1) Findings. The Madison Common Council finds that certain premises within the City receive and require more than the general, acceptable level of police services and Building Inspection Department Services, place an undue and inappropriate burden on City of Madison taxpayers, and constitute public nuisances. Nuisance activity contributes to the general decay of an affected neighborhood and negatively impacts law-abiding residents in these neighborhoods. The vast majority of properties with chronic nuisance activity are non-owner occupied. This ordinance is enacted to encourage premises owners to recognize their responsibility to ensure that activities occurring on their premises conform to the law and do not unduly burden the City's police and Building Inspection resources and to provide a mechanism for the City to take action against premises owners who fail to ensure premises they own do not require a disproportionate level of police and Building Inspection resources to be devoted to such premises. This ordinance provides a method for Police and the Department of Building Inspection to use in a progressive manner when working with property owners to abate nuisance activities occurring on their premises. Therefore, the Common Council determines that the City will charge the owners of such premises with the costs associated with abating nuisance activity at premises where nuisance activities chronically occur. This section is not intended to discourage crime victims or a person in legitimate need of police services from requesting them. This section does not affect a Premises owner's duty to comply with the Fair Housing Laws under sec. 39.03 of the Madison General Ordinance (Equal Opportunities Ordinance), nor does it affect a Premises owner's duty to comply with all other laws governing residential tenancies which are contained in Chapter 704 of the Wisconsin Statutes, Chapter ATCP 134 of the Wisconsin Administrative Code, and Chapter 32 of the Madison General Ordinances. (Am. by ORD-08-00109, 10-7-08)

(2) Definitions. For the purposes of this section:

(a) "Chronic Nuisance Premises" means a premises that meets any of the following criteria:

1. Is a Premises which has generated three (3) or more calls for police services that have resulted in Enforcement Action for Nuisance Activities on three (3) separate days within a ninety (90) day period and/or has generated five (5) or more cases from the Building Inspection Department for Nuisance Activities from at least five (5) building inspections occurring within a one (1) year period, with such calls resulting in Enforcement Action. Three (3) or more calls for police services resulting in Enforcement Action for Nuisance Activities includes Enforcement Action taken against any person associated with the Premises while at or within two hundred feet (200) of the Premises for a Nuisance Activity; or
2. Is a Premises for which a Dane County Court of law has determined that, pursuant to a search warrant request, probable cause exists that manufacture, distribution or delivery of a controlled substance has occurred on or in association with the Premises within thirty (30) days prior to the date of the search warrant application; or
3. Is a Premises which has had one (1) Enforcement Action associated with the Premises resulting from the manufacture, delivery or distribution of a controlled substance(s) as defined in Chapter 961 of the Wisconsin Statutes.

(Am. by ORD-08-00109, 10-7-08)

(b) "Chronic Nuisance Premises Notice" means the notice issued by the Chief of Police and/or the Director of Building Inspection and referred to in Subsection (3)(a) of this ordinance. (Am. by ORD-08-00109, 10-7-08)

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(c) "Enforcement Action" means any of the following: The physical arrest of an individual(s), the issuance of a citation for a law violation and/or referral of charges by

the police or the Department of Building Inspection to the City Attorney or District Attorney for prosecution for Nuisance Activities. (Am. by ORD-08-00109, 10-7-08)
(d) "Nuisance Activities" means any of the following activities, behaviors or conduct:

1. An act of harassment as defined in s. 947.013, Wis. Stats.
 2. Disorderly conduct as defined in s. 24.02, MGO or s. 947.01, Wis. Stats.
 3. Crimes of violence as defined in ch. 940, Wis. Stats.
 4. Resisting or obstructing an officer as prohibited by Sec. 5.06, MGO or s. 946.41, Wis. Stats.
 5. Indecent exposure as prohibited by Sec. 26.01, MGO or s. 944.20(1)(b) Wis. Stats.
 6. Damage to property as prohibited by Sec. 23.06, MGO. or s. 943.01, Wis. Stats.
 7. The production or creation of noises disturbing the peace, as prohibited by sec. 24.04, MGO.
 8. Discharge of a firearm as prohibited by Sec. 25.06, MGO.
 9. Crimes involving illegal possession of firearms as defined in ss. 941.23, 941.26, 941.28, 941.29 and 948.60, Wis. Stats.
 10. Trespass to land as defined in s. 943.13, Wis. Stats. or criminal trespass to dwelling as defined in s. 943.14, Wis. Stats, or unlawful trespass as prohibited in Sec. 23.07, MGO.
 11. Obstructing a street or sidewalk, as prohibited by Sec. 10.23(1), MGO.
 12. Theft as defined in s. 943.20, Wis. Stats.
 13. Arson as defined in s. 943.02, Wis. Stats.
 14. Depositing rubbish as prohibited by Sec. 10.17, MGO.
 15. Keeping a place of prostitution as defined in or s. 944.34, Wis. Stats.
 16. Loitering for the purposes of prostitution as prohibited by Sec. 26.08, MGO.
 17. Loitering for purposes of soliciting prostitutes, as prohibited by Sec. 26.085, MGO.
 18. Prostitution as prohibited by s. 944.30, Wis. Stats.
 19. Soliciting prostitutes as prohibited by s. 944.32, Wis. Stats.
 20. Pandering as prohibited by s. 944.33, Wis. Stats.
 21. Loitering for purposes of soliciting prostitutes, as prohibited by Sec. 26.085, MGO.
 22. Possessing an open container which contains alcohol beverages or consuming alcohol beverages upon any public street as prohibited by Sec. 38.07(7) of these ordinances.
 23. Selling, offering for sale or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in Sec. 38.05(1), MGO, or s. 125.04(1), Wis. Stats.
 24. Possession, manufacture, distribution or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.
 25. Maintaining a drug dwelling as defined in Sec. 961.42 of the Wisconsin Statutes.
 26. Illegal gambling as defined in s. 945.02, Wis. Stats.
 27. Owning, keeping or harboring a dangerous animal, as defined in Sec. 25.22, MGO.
 28. Violations of the Minimum Housing Code, as prohibited by Ch. 27, MGO.
- (e) "Person" means any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using property in the City of Madison.
- (f) "Person Associated With" means any person who, whenever engaged in a Nuisance Activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a premises or person present on a premises, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner of a premises.

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(g) "Person in Charge" means any person, in actual or constructive possession of a Premises including but not limited to an owner or occupant of Premises under his or her ownership or control.

(h) "Chief of Police" means the City of Madison Police Department Chief of Police or designee.

(i) "Director of Building Inspection" means the City of Madison Department of Building Inspection Director or designee. (Am. by ORD-08-00109, 10-7-08)

(j) "Premises" means a place of abode, a residence, a house or multiple dwelling unit for one (1) or more persons, including lodging houses, hotels, motels and tourist rooming houses, and associated common areas, yards and parking lots. In the case of multiple dwelling units, "Premises", as used in this Section, may consist of any single unit providing complete, independent living facilities for one (1) or more persons, including provisions for living, sleeping, eating, cooking and sanitation.

(3) Procedure.

(a) Upon finding that a Premises meets the definition of a Chronic Nuisance Premises, the Chief of Police or the Director of Building Inspection may declare the Premises a Chronic Nuisance Premises. The Chief of Police or the Director of Building Inspection shall provide written notice of his or her determination to the Premises owner identified by the City of Madison Assessor's records for that Premises, and a courtesy copy to the Alder of the affected district. The Chronic Nuisance Premises Notice ("CNP Notice") shall be deemed delivered if sent either by first class mail to the Premises owner's last known address or delivered in person to the Premises owner and the courtesy copy to the Alder at the Common Council office or by electronic mail. If the Premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the Premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age, or a competent adult currently residing there and who shall be informed of the contents of the CNP Notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the CNP Notice is sent by first class mail to the last known address of the owner as identified by the records of the City Assessor. The CNP Notice shall contain the following information:

1. Street address, parcel number or a legal description sufficient to identify the Premises.
 2. A concise statement, including a description of the relevant activities supporting the determination that the Premises is a Chronic Nuisance Premises.
 3. A statement that the owner shall immediately notify the Chief of Police or Director of Building Inspection of any change in address to ensure receipt of future notices.
 4. A statement that the cost of future enforcement may be assessed as a special charge against the Premises.
 5. A statement that the owner shall, within ten (10) days of receipt of the CNP Notice, respond to the Chief of Police or the Director of Building Inspection either with an appeal or to propose a written course of action to abate the Nuisance Activities. The Statement shall direct the Premises owner to schedule a meeting with the Chief of Police and/or Director of Building Inspection to discuss the Nuisance Activity and the Premises owner's intent regarding abatement.
 6. A statement that the Premises owner shall, when appropriate, consider and implement alternatives to eviction when formulating an abatement plan.
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7. A statement that the Premises owner shall at all times comply with the fair housing requirements contained in Sec. 39.03 of the Equal Opportunities

Ordinance when considering any action against a tenant based upon a CNP Notice.

8. A statement that the Premises owner may be subject to a forfeiture action with a penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for permitting a Chronic Nuisance Premises and may be subject to imprisonment for failure to pay such forfeiture.

9. A statement that if the Premises is a non-owner occupied residential Premises, the Premises owner shall attend a landlord training, approved by the Office of the City Attorney, within thirty (30) days of issuance of the CNP Notice.

(Am. by ORD-08-00109, 10-7-08)

10. A statement that the Premises owner must comply with the registration requirements of Sec. 9.25, MGO, if the owner is renting, or offering for rent, the Premises and that the owner must apply for a registration certificate within fifteen (15) days of the CNP Notice. (Cr. by ORD-10-00011, 2-4-10)

(b) 1. In reaching a determination that a premises is a Chronic Nuisance Premises, activities that were reported to the police or Department of Building Inspection by the Premises owner or on-site Premises manager shall not be included as Nuisance Activities. (Am. by ORD-08-00109, 10-7-08)

2. Wis. Stat. § 968.075, broadly defines “domestic abuse”. Therefore, in reaching a determination that a Premises is a Chronic Nuisance Premises, activities that are “domestic abuse” incidents pursuant to Wis. Stat. § 968.075, shall not be included as Nuisance Activities unless the incidents have been reviewed by the Chief of Police and the Office of the City Attorney and a determination is made that, based upon the specific facts of each incident, the activities should be deemed Nuisance Activities under Subsection (2)(d). In determining whether to include such activities, the Chief of Police and Office of the City Attorney shall consider the strong public policy in favor of domestic victims reporting alleged abuses, and this ordinance shall not operate to discourage such reports and shall comply with the domestic violence provisions contained in the Equal Opportunities Ordinance under Sections 39.03(4)(d)3 and 5. (Am. by ORD-09-00147, 11-6-09)

3. a. If the owner responds to the CNP Notice pursuant to Subdivision (a) with a nuisance abatement proposal, the Chief of Police or the Director of Building Inspection may accept, reject or work with the owner to modify the proposal. The plan is acceptable if it can reasonably be expected to result in abatement of the Nuisance Activities described in the CNP Notice within sixty (60) days. (Am. by ORD-08-00109, 10-7-08)

b. Premises owners shall be counseled regarding nuisance abatement methods and strategies and shall be encouraged to submit a comprehensive nuisance abatement plan that considers alternatives to eviction in situations where eviction is not the sole remedy available to abate the nuisance activity.

c. Premises owners shall be counseled regarding use of available resources, including community service providers, when Nuisance Activity associated with the Premises is not caused or contributed to by the direct actions of a tenant.

d. If the Premises owner meets with the Chief of Police and/or the Director of Building Inspection and presents an acceptable abatement plan and initiates action to abate the Nuisance Activities occurring on the Premises, the Police Department and/or Department of Building Inspection will delay further enforcement of this ordinance, including cost recovery under Subsection (4)(a). (Am. by ORD-08-00109, 10-7-08)

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e. If the Premises owner ceases to cooperate with the efforts to abate the Nuisance Activities, the Chief of Police and/or Director of Building Inspection will reinstitute enforcement of this ordinance and the Premises owner will be sent a Change In Status Letter. This letter will document the Police Department and/or Department of Building Inspection's efforts to contact and/or obtain cooperation of the owner.

(Am. by ORD-08-00109, 10-7-08)

f. Failure by the Premises owner to respond within ten (10) days as directed in this subdivision shall result in a forfeiture of one thousand dollars (\$1,000) plus court costs and fees.

4. Any Premises owner who has been notified by the Chief of Police or the Director of Building Inspection that their non-owner occupied Premises is a Chronic Nuisance Premise shall attend a landlord training approved by the Office of The City Attorney within thirty (30) days of said notification. The fee for any landlord training program administered by the City of Madison shall be fifty dollars (\$50.00) and shall be paid by the Premises owner prior to attending the training. Failure to attend the approved landlord training shall result in a forfeiture of two hundred fifty dollars (\$250) plus court costs and fees. (Am. by ORD-08-00109, 10-7-08)

(c) Whenever the Chief of Police or the Director of Building Inspection determines that any of the following have occurred:

1. A Premises owner has failed to respond to the CNP Notice in Subsection (3)(a),
or

2. Enforcement action for an additional Nuisance Activity has occurred at a Premises for which Notice has been issued pursuant to Subdivision (a) and this Enforcement Action has occurred not less than fifteen (15) days after the CNP Notice has been issued, or

3. A course of action submitted pursuant to Subsection (3)(b)3. has not been completed,

Then the Chief of Police and/or the Director of Building Inspection may calculate the cost of enforcement to abate this and any subsequent Nuisance Activities and may refer such cost to the Finance Director so that the cost may be billed to the Premises owner. The Chief of Police and/or the Director of Building Inspection shall notify the Premises owner of the decision to refer the cost of enforcement to the Finance Director. Delivery of this notice, along with a copy of the Chief's or Building Inspection Director's referral letter to the Finance Director, shall be made as set forth in Subdivision (a). The notice shall contain:

a. The street address or legal description sufficient for identification of the premises.

b. A Statement that the Chief of Police and/or the Director of Building Inspection has referred the cost of enforcement to the Finance Director with a concise description of the Nuisance Activities and the relevant sections of the ordinances.

c. Notice of the premises owner's right to appeal pursuant to Subsection (5).

(Am. by ORD-08-00109, 10-7-08; ORD-11-00037, 3-8-11)

(d) Each subsequent incident of enforcement action for Nuisance Activity shall be deemed a separate violation and costs will continue to be assessed pursuant to Subsection (3)(c)3 until the nuisance is abated pursuant to Subsection (10).

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(4) Penalties and Remedies.

(a) Cost Recovery. The Chief of Police and the Director of Building Inspection shall keep an

accurate account of the cost of enforcement and shall report it to the Finance Director. The Finance Director shall establish a reasonable charge for the costs of enforcement of this section. Upon receipt of a notice from the Chief of Police or the Director of Building Inspection issued pursuant to Sub. (2)(b), the Finance Director shall charge any Premises owner found to be in violation of this section the costs of enforcement in full or in part. Such costs shall be billed to the Premises owner by invoice sent by regular mail and must be paid within thirty (30) days of the date on the invoice. Any unpaid invoice shall be a lien on such Premises and may be assessed and collected as a special charge pursuant to Wis. Stat. § 66.0627. A one hundred dollar (\$100) administrative fee shall be added to the cost of enforcement charged to the benefited premises any time the premises is declared a chronic nuisance premises. (Am. by ORD-08-00109, 10-7-08; ORD-11-00037, 3-8-11)

(b) Suspension of Cost Recovery. If after the receipt of a billing notice from the Finance Director, the Premises owner develops an acceptable plan and initiates action to abate nuisance activities occurring on the Premises, the Chief of Police and/or Director of Building Inspection will suspend further enforcement of this ordinance. The Premises owner is still responsible for any enforcement costs incurred prior to the Premises owner's submitting an abatement plan, including the administrative fee. If the Premises owner ceases to cooperate with the efforts to abate the Nuisance Activities, the Chief of Police and Director of Building Inspection will reinstitute enforcement of this ordinance after sending the Premises owner a Change In Status letter. (Am. by ORD-08-00109, 10-7-08; ORD-11-00037, 3-8-11)

(c) Forfeiture. A forfeiture action may be commenced by the Office of the City Attorney for each Enforcement Action for Nuisance Activity occurring after the Premises has been declared a Chronic Nuisance Premises. The forfeiture shall be not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each enforcement action. Upon default of payment, the Premises owner may be imprisoned in the county jail for a period of not more than ninety (90) days.

(5) Appeal. Appeal of the determination of the Chief of Police and/ or the Director of Building Inspection pursuant to either Subsection (3)(a), or the action of the Finance Director imposing special charges pursuant to Subsection (4)(a) against the Premises, may be submitted in writing to the Administrative Review Board in accordance with the procedures set forth in Sec. 9.49 of these ordinances. (Am. by ORD-08-00109, 10-7-08; ORD-11-00037, 3-8-11)

(6) Eviction or Retaliation Prohibited.

(a) It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant because that tenant complained to the Chief of Police or Building Inspection Director about Nuisance Activities on the landlord's premises. It shall be unlawful for a landlord or any person acting as an agent for the landlord, to intimidate or actively discourage a tenant and/or persons associated with a tenant, from calling the police to report Nuisance Activity associated with a Premises. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the 12-month period following receipt of the complaint by the Chief of Police or Building Inspection Director constitutes unlawful retaliation under this subsection. Such presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. Notwithstanding the foregoing, a tenant's lease agreement or periodic tenancy may be terminated for a failure to pay rent; committing Nuisance Activity as defined in Sub. (2)(d); for the commission of waste upon the Premises; violating the terms and Sec. 25.09(6)(a) OFFENSES AGAINST PUBLIC SAFETY

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conditions of the lease agreement or periodic tenancy or as otherwise provided in Wis. Stat. ch. 704, and Wis. Admin. Code ch. Ag. 134. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic

tenancy shall not be deemed a violation of this subsection. (Am. by ORD-08-00109, 10-7-08)

(b) “Good cause” as used in this subsection means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this section.

(c) Penalty. Any person violating Subsection (6) shall be subject to a forfeiture of not less than \$100 nor more than \$2000 for each violation and upon failure to pay said forfeiture, may be imprisoned in the county jail for a period of not more than ninety (90) days.

(7) Summary Abatement. The Director of Building Inspection is authorized to cause the abatement, including summary abatement, of any nuisance found on any Premises, according to the procedure prescribed in Sec. 27.05(3), MGO. (Am. by ORD-08-00109, 10-7-08)

(8) Injunction. This section may be enforced by injunction. Neither an action for injunction or for a forfeiture hereunder is subject to the notice requirements of Sec. 3.07(2), MGO.

(9) Abatement In Accordance With State Law. Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State.

(10) When Nuisance Is Deemed Abated. The public nuisance created by a Chronic Nuisance Premises shall be deemed abated when no Enforcement Action to address Nuisance Activities occurs for a period of six (6) consecutive months from the date stated on the notice declaring the Premise a Chronic Nuisance Premises and/or there are no building inspection cases generated for a period of six (6) consecutive months from the date stated on the notice declaring the Premises a Chronic Nuisance Premises. (Am. by ORD-09-00147, 11-6-09)

(11) Severability. The provisions of any part of this section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included herein.

(12) Report. The Chief of Police shall annually report to the Common Council on the following:

(a) How many Premises were declared Chronic Nuisance Premises.

(b) How many Premises that were declared Chronic Nuisance Premises were abated and the length of time it took for abatement to occur.

(c) How often the Cost Recovery provision was used and the dollar amount collected under this provision.

(Sec. 25.09(12) R. & R. by ORD-09-00148, 10-31-09)

(Sec. 25.09 Cr. by ORD-07-00129, 10-5-07)