

CITY OF MADISON, WISCONSIN

A SUBSTITUTE ORDINANCE \_\_\_\_\_

PRESENTED  
REFERRED

September 1, 2009  
CCOC; PSRC; Housing  
Committee  
\_\_\_\_\_

Creating Sec. 9.25 to require registration for all landlords who have a property that has been declared a Chronic Nuisance Premises, creating Sec. 25.09(3)(a)10. to require notification to landlords of the requirements of Sec. 9.25, amending Sec. 1.08(3)(a) to establish a bond schedule for violations of Sec. 9.25, and amending Sec. 1.08(4) of the Madison General Ordinances to give the Director of Building Inspection the power to enforce Sec. 9.25 by citation.

Drafted by: Doran Viste  
Jennifer Zilavy

Date: November 19, 2009

SPONSORS: Aids. Bruer & Schumacher

DRAFTER'S ANALYSIS: Properties determined to be a Chronic Nuisance Premises under Section 25.09 of the Madison General Ordinances negatively impact the community and the citizens of Madison. These properties, most of which are non-owner occupied rental properties, use a disproportionate share of City police and inspection services, adversely impact the safety of the occupants and neighbors of the property, and damage the fabric of the neighborhood. The owners of these properties have already demonstrated an inability to adequately maintain and operate the property such that the City has declared the property to be a nuisance, thereby necessitating greater City intervention. The purpose of this ordinance is to require that the owners of those properties determined to be a Chronic Nuisance Premises who choose to rent any portion of the property to another, must register with the City Clerk. The conditions of this registration shall apply to each owner of the property and shall require each landlord to comply with the nuisance abatement plan reached with the City, provide current contact information to City officials of owners and managing agents of the property, and attend yearly landlord training. If a landlord fails to meet the terms and conditions of the registration, or the property continues to exhibit nuisance activity, the registration can be revoked and the landlord will no longer be permitted to rent the property. Furthermore, this registration requirement will strengthen the Chronic Nuisance Premises Ordinance by giving City officials access to more complete and updated information regarding ownership and management of the property, as well as provide City officials with more enforcement tools in dealing with these properties. By expanding the citation authority of the Director of Building Inspection and setting forth a bond schedule for violations of this Ordinance, City officials will have various means at their disposal to address the landlords of Chronic Nuisance Premises, ranging from citations for violations of the registration terms and conditions, to a revocation of the registration. By creating this registration requirement, it is hoped that landlords of properties determined to be a Chronic Nuisance Premises will take the necessary steps to ensure that the negative impacts that the property has on the community are effectively reduced.  
\*\*\*\*\*

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

- 1. Creating Section 9.25 entitled "Registration of Landlords of Chronic Nuisance Properties" of the Madison General Ordinances to read as follows:

**"9.25 REGISTRATION OF LANDLORDS OF CHRONIC NUISANCE PROPERTIES.**

- (1) Purpose. Properties that have been determined to be Chronic Nuisance Premises (CNP) under Sec. 25.09, MGO are properties that harm the community, requiring a higher proportion of City police and

**Approved as to form:**

inspection services, negatively impacting the safety of the occupants and neighbors of the property, and damaging the fabric of the neighborhood. The vast majority of properties determined to be Chronic Nuisance Premises are non-owner occupied rental properties. Due to the negative effects such properties have on the community, it is in the City's interest to regulate the owners of these properties who choose to rent the premises, or portion thereof, to other people. The purpose of this ordinance is to protect the public welfare by requiring that those owners who have a property or properties that have been declared a Chronic Nuisance Premises be registered with the City to ensure compliance with an abatement plan, that the property is adequately maintained, and that the owners are sufficiently trained regarding landlord-tenant issues.

(2) Definitions. In addition to all of the definitions contained in Sec. 25.09(2), MGO, the following definitions apply to this section:

- (a) "Absentee Landlord" means a landlord who owns a rental property and does not reside in Dane County and/or is not involved in the day-to-day management of the property.
- (b) "Dwelling unit" means one or more rooms which are arranged, designed or used as living quarters for one family only.
- (c) "Landlord" means the owner(s) of a property where a 3<sup>rd</sup> party has entered into a rental agreement for the rental or lease of all or part of a property.
- (d) "Registration authorities" are the Chief of Police, the Director of Building Inspection, and the City Attorney, or their respective designees.
- (e) "Managing agent" is a person who, by virtue of his or her position, has control, including physical and contractual, over a property.
- (f) "Owner" means any person who jointly or severally is vested with all or part of legal title to (or beneficial ownership of) the property, and who has the right to present use and enjoyment of the premises, and the full or partial proceeds thereof. The term includes, but is not limited to, a mortgagee in possession, a trustee, a trust, a life-estate holder, a remainderman, a land-contract seller, and a land-contract buyer.
- (g) "Person" means any individual, partnership, association, corporation, joint venture, limited liability company or partnership, trust, or other entity that may enter into contracts.
- (h) "Rental agreement" is a written or oral agreement for the rental or lease of a specific dwelling unit or premises, or portion thereof, in which the owner and tenant agree on essential terms of tenancy such as rent. This term does not include an agreement to enter into a rental agreement in the future, nor does it include land contracts

(3) Applicability.

- (a) Except as set forth in subdivision (b), every owner of a property determined to be a Chronic Nuisance Premises under Sec. 25.09(3)(a), MGO must comply with the provisions of this section.
- (b) This section does not apply where the registration authorities provide the Clerk notice, pursuant to subdivision (7)(b), that the property is no longer subject to the registration requirements of this section. However, this exception does not apply to subsequent determinations that the property is again a Chronic Nuisance Premises.

(4) Registration Requirement. Within ninety (90) days of a property being determined to be a Chronic Nuisance Premises, or a transfer of full or partial ownership of a property already determined to be a Chronic Nuisance Premises, or the enactment of this ordinance, every owner subject to this section must have registered with the Clerk under this section in order to rent, or offer for rent, all or part of the property determined to be a Chronic Nuisance Premises.

(5) Registration Process.

(a) Initial Registration.

1. Registration Process.

- a. Owners must register with the Clerk within fifteen (15) days of the issuance of the CNP Notice under Sec. 25.09(3)(a), MGO. To be considered by the Clerk, registrations submitted more than thirty (30) days after the issuance of the CNP Notice must be accompanied by a letter from the registration authorities that a nuisance abatement plan has been agreed to. An owner who has had his or her registration revoked under subdivision (d) cannot reapply for registration at that property.
- b. Registrations must be accompanied by the registration fee as set forth in subsection (8).
- c. Registrations must be submitted on a form provided by the Clerk which shall require the following information:
  - i. The name, address, work, cellular and home telephone numbers and email address of each owner of the property, as well as the registered agent of any owner of the property. When the owner is a land trust, the

form shall include the name and address of each person(s) holding a beneficial interest and/or power of direction therein.

- ii. The Name, address, work, cellular and home telephone numbers of any person appointed as managing agent(s) of the property. If the managing agent is other than a natural person, the above information shall also be provided for the designated employee(s) of the managing agent specifically assigned to the property.
  - iii. A copy of the written management agreement between the owner and the managing agent shall be attached to the registration form. If no written agreement exists, the owner and managing agent shall attach an executed statement setting forth the terms of the managing agent's authority to rent, manage, and make expenditures with respect to the multi-family dwelling.
  - iv. If no managing agent has been appointed, the name, address, work, cellular and home telephone numbers of an agent authorized by the owner to accept notices and process.
  - v. The number of dwelling units in the property, the occupancy rate for each unit, the names of the occupants of each rental dwelling unit, and the rental rate for each unit.
  - vi. The name and mailing address of the property mortgagee and the name under which the mortgage for the property is held.
  - vii. A signed statement from the registrant that he or she agrees to all the terms and conditions of the registration as set forth in subsection (6).
- d. Upon receipt of a registration form, the City Clerk shall forward copies of the same to the registration authorities.

2. Registration Certificate.

- a. A registration certificate shall be issued by the Clerk only upon being notified jointly by the licensing authorities that:
  - i. The registrant has provided complete and accurate information on the application form;
  - ii. The registrant has agreed to, and is cooperating with, a nuisance abatement plan under Sec. 25.09(3)(b)3; and
  - iii. The registrant has attended and completed the landlord training program as required under Sec. 25.09(3)(b)4, or other similar class approved by the City Attorney.
  - iv. There are no existing inspection reports identifying any code violation(s) which have not been corrected and for which the time of correction of said violation as noted in such inspection report has expired; and/or
  - v. There is no pending litigation with respect to code violations at such property.
  - vi. If the circumstances in (iv) or (v) above exist, the Clerk shall hold the registration and fee in abeyance until the identified code violations are cured or the code violation charges are dismissed by a Court or the City. Upon either of such event occurring, the Clerk shall promptly issue the license.
- b. A copy of the registration certificate shall be forwarded to the registration authorities, the property owners mortgage holder as identified in subparagraph 5(a)1.c.vi. and to the Dane County Register of Deeds.
- c. A registration certificate issued under this section is valid for one (1) year from the date of issuance.

(b) Renewal of Registration.

1. Within thirty (30) days, and no later than ten (10) days, of the expiration of the registration certificate, the owner must apply for a renewal of the registration certificate and pay the renewal fee as set forth in subsection (8).
2. Renewal registrations must be submitted on a form provided by the Clerk which shall require the following information:
  - a. Either:
    - i. A statement that no information contained on the initial registration form or most recent renewal form has changed; or
    - ii. An update of the information that has changed since the initial registration or most recent renewal registration.



- (e) Compliance With Nuisance Abatement Plan. The registrant agrees to comply with the nuisance abatement plan reached under Sec. 25.09(3)(b)3.
  - (f) Inspection Requirement. The registrant agrees to allow inspections of the property by the Director of Building Inspection, or his or her designee, upon tenant complaints, pursuant to reinspection deadlines, or because of programmed inspections. It shall be deemed a failure to allow an inspection by every registrant of the property if an inspection is scheduled and the inspector is prevented from accessing the property.
  - (g) Yearly Training. The registrant agrees to attend a landlord training program within sixty (60) days of the expiration of the certificate, each year the certificate is up for renewal. If registrant is an absentee landlord, registrant agrees to, in addition to registrant, have a person directly involved in the day-to-day management of the property attend landlord training within sixty (60) days of the expiration of the certificate each year the certificate is up for renewal.
  - (h) Rental Agreements Required. The registrant agrees that each occupied dwelling unit, except for an owner-occupied unit, shall be subject to a rental agreement. The registrant agrees to forfeit the registration certificate if he or she permits a person(s), other than the immediate family members of an owner-occupant, to occupy a dwelling unit without a rental agreement. An owner will be deemed to have met the requirements of this condition if the owner has initiated a civil action for the removal of the unlawful or unauthorized occupant, or has contacted the Police Department to pursue trespassing charges.
- (7) Termination of Registration Requirement.
- (a) The owner of a property subject to the requirements of this section, may apply to the registration authorities to terminate the requirement that he or she register and obtain a registration certificate to rent, or offer for rent, the property. This can be done upon a showing by the owner, verified by the registration authorities, that either:
    - 1. For a one (1) year period, every owner(s) of the property, or prior owner(s) of the property, has
      - a. Fully complied with the nuisance abatement plan reached under Sec. 25.09(3)(b)3;
      - b. Fully complied with all the terms and conditions of the registration certificate under subsection (6); and
      - c. There has not been an Enforcement Action at the property; or
    - 2. There has been a change in full ownership of the property since the Chronic Nuisance Premises determination was made, and, within ninety (90) days of the change in full ownership, the property is no longer determined to be a Chronic Nuisance Premises by the registration authorities.
  - (b) Upon the owner meeting the requirements of subdivision (a), the registration authorities shall provide the Clerk notice that the property is no longer subject to the registration requirements of this section.
- (8) Fees.
- (a) Application Fee. Each registrant for a registration certificate shall pay the Clerk two hundred and fifty dollars (\$250). However, if there are multiple owners to a property, the second and subsequent registrant shall pay the Clerk one hundred dollars (\$100).
  - (b) Renewal Fee. Each registrant submitting a renewal form shall pay the Clerk fifty dollars (\$50).
  - (c) Late Charge. If a registrant for a license or an owner attempting to renew his or her registration under this section fails to file the registration or renewal form on time, the associated fee set forth above is doubled.
- (9) Enforcement. The provisions of this section are enforceable by the Clerk and each of the registration authorities.
- (10) Appeal. The provisions of Sec. 9.49, MGO apply to the review of administrative determinations made by the Clerk or the registration authorities pursuant to this section.
- (11) Penalty.
- (a) Renting Without a Registration Certificate. Anyone subject to this section who violates the registration requirement of subsection (4) shall be subject to a forfeiture of not less than five hundred dollars (\$500) nor more than twenty-five hundred dollars (\$2,500) upon conviction. Each day of the violation and each dwelling unit rented, or offered for rent, without a registration certificate shall be construed as a separate offense.
  - (b) Any other violation of this section shall be subject to a forfeiture of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1000) upon conviction. Each day of the violation shall be construed as a separate offense.”

2. Paragraph 10. of Subdivision (a) of Subsection (3) entitled “Procedure” of Section 25.09 entitled “Chronic Nuisance Premises” of the Madison General Ordinances is created to read as follows:

“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.”

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 or adding therein the following:

<u>“Offense</u>	<u>Ord. No.</u>	<u>Deposit</u>
<u>Renting without a registration certificate.</u>	<u>9.25(4)</u>	<u>\$500 1<sup>st</sup>; \$1000 2<sup>nd</sup>; \$2500 3<sup>rd</sup>+</u>
<u>Failure to post registration certificate.</u>	<u>9.25(6)(c)</u>	<u>\$100 1<sup>st</sup>; \$500 2<sup>nd</sup>; \$1000 3<sup>rd</sup> +</u>
<u>Failure of registrant to update information.</u>	<u>9.25(6)(d)</u>	<u>\$100 1<sup>st</sup>; \$500 2<sup>nd</sup>; \$1000 3<sup>rd</sup> +</u>
<u>Failure to comply with abatement plan.</u>	<u>9.25(6)(e)</u>	<u>\$100 1<sup>st</sup>; \$500 2<sup>nd</sup>; \$1000 3<sup>rd</sup> +</u>
<u>Failure to comply with inspection requirement.</u>	<u>9.25(6)(f)</u>	<u>\$100 1<sup>st</sup>; \$500 2<sup>nd</sup>; \$1000 3<sup>rd</sup> +”</u>

4. Subsection (4) entitled “Issuance of Citations” 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:

<u>Enforcement Official</u>	<u>Ordinance Chapter or Section and Title</u>
Director of the Building Inspection Division of the Department of Planning and Community and Economic Development or designee.	Section 8.15, Regulating Private Use of Greenways and Park Lands, and the Southwest Bike Path; Section 9.13, License for Selling on Public Streets; <u>Section 9.25, Registration of Landlords of Chronic Nuisance Properties</u> ; Section 12.128(14), Off-Driveway Parking; Section 12.145(1)(d), No Street Vending from Parking Meter; Section 36.30, Cable TV Connections; Chapter 22, Consumer Protection and Weights and Measures; Section 23.29, Noxious Weed Control, Section 24.08, Noise Control Regulation; Chapters 10, 18, 19, 27, 28, 29, 30, 31, 37, Section 33.24 (Urban Design Commission,) and Section 33.19 (Landmarks Commission).

EDITOR’S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.