

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED
REFERRED

September 1, 2009

CCOC; PSRC; Housing
Committee

Creating Section 9.25 of the Madison General Ordinances to require the licensing of landlords of chronic nuisance properties, creating Section 25.09(3)(a)10. to require notification to landlords of the requirements of Section 9.25, amending Section 1.08(3)(a) to establish a bond schedule for violations of Section 9.25, and amending Section 1.08(4) to give the Director of Building Inspection the power to enforce Section 9.25 by citation.

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Date: August 28, 2009

SPONSORS: Ald. Bruer

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 obtain and hold a license to do so. The conditions of this license will apply to each owner of the property and 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 license, or the property continues to exhibit nuisance activity, the license can be revoked and the landlord will no longer be permitted to rent the property. Furthermore, this licensing 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 license terms and conditions, to a revocation of the license. By creating this licensing 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:

Approved as to form:

1. Creating Section 9.25 entitled “Licensing of Landlords of Chronic Nuisance Properties” of the Madison General Ordinances to read as follows:

“9.25 LICENSING OF LANDLORDS OF CHRONIC NUISANCE PROPERTIES

- (1) Purpose. Properties that have been determined to be Chronic Nuisance Premises (CNP) under Section 25.09 of the Madison General Ordinances are properties that harm the community, requiring a higher proportion of City police and 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 licensed by 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) “Contact information” includes the address, telephone number(s), e-mail address(s), and any and all other means that would allow City staff to contact a person. Contact information does not include a Post Office Box address.
 - (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 3rd party has entered into a rental agreement for the rental or lease of all or part of a property.
 - (d) “Licensing 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 licensing authorities provide the Clerk notice, pursuant to Subsection (7)(b), that the property is no longer subject to the licensing requirements of this section. However, this exception does not apply to

subsequent determinations that the property is again a Chronic Nuisance Premises.

- (4) Licensing 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 hold a valid license issued under this section to rent, or offer for rent, all or part of the property determined to be a Chronic Nuisance Premises.

- (5) Licensing Process.

- (a) Initial Application and Issuance of License.

1. Application Process.

- a. Owners must apply for a license within fifteen (15) days of the issuance of the CNP Notice under Sec. 25.09(3)(a), MGO. To be considered by the Clerk, applications submitted more than thirty (30) days after the issuance of the CNP Notice must be accompanied by a letter from the licensing authorities that a nuisance abatement plan has been agreed to. An owner who has had his or her license revoked under subdivision (d) cannot reapply for a license at that property.
- b. Applications must be accompanied by the application fee as set forth in subsection (8).
- c. Applications must be submitted on a form provided by the Clerk which shall require the following information:
 - i. The name and contact information for each owner of the property, as well as the registered agent of any owner of the property.
 - ii. The contact information for the managing agent(s) of the property.
 - iii. 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.
 - iv. A signed statement from the applicant that he or she agrees to all the terms and conditions of the license as set forth in subsection (6).
- d. Upon receipt of an application, the City Clerk shall forward copies of the same to the licensing authorities.

2. Issuance of License.

- a. A license shall be issued by the Clerk only upon being notified jointly by the licensing authorities that:
 - i. The applicant has provided complete and accurate information on the application form;
 - ii. The applicant has agreed to, and is cooperating with, a nuisance abatement plan under Sec. 25.09(3)(b)3; and
 - iii. The applicant 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.
- b. A license issued under this section is valid for one (1) year from the date of issuance.

- (b) Renewal of License.

1. Within thirty (30) days, and no later than ten (10) days, of the expiration of the license, the owner must apply for a renewal of the license and pay the renewal fee as set forth in subsection (8).

2. Renewal applications 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 license application or most recent renewal application has changed; or
 - ii. An update of the information that has changed since the initial license application or most recent renewal application.
 - b. A signed statement from the applicant that he or she agrees to all the terms and conditions of the license as set forth in subsection (6).
 3. Upon receipt of the renewal application, the City Clerk shall forward copies of the same to the licensing authorities.
 4. The City Clerk shall renew the license only upon being notified jointly by the licensing authorities that:
 - a. The applicant has provided complete and accurate information on the license renewal form;
 - b. The applicant has either fully abated the chronic nuisance and the property is no longer a Chronic Nuisance Premises, or the applicant is cooperating with the nuisance abatement plan under Sec. 25.09(3)(b)3;
 - c. The applicant has attended a landlord training program approved by the Office of the City Attorney within sixty (60) days prior to the renewal of the license;
 - d. There has been no more than three (3) Enforcement Actions at the property during any six (6) month period after the issuance or renewal of the license;
 - e. The applicant has paid all the fees and costs associated with the Chronic Nuisance Premises finding that accrued during the period of the license; and
 - f. The continued rental of dwelling units at the property is not contrary to the public interest.
 5. A license renewed under this subdivision is valid for one (1) year from the date of issuance, and must be renewed, pursuant to this subdivision, within thirty (30) days, and no later than ten (10) days, of the expiration of the license.
- (c) Revocation of License. A license issued under this section can be revoked at any time by the City upon a joint determination by the licensing authorities that:
1. More than three (3) Enforcement Actions have occurred within any ninety (90) day period since the issuance of the license;
 2. More than six (6) Nuisance Activities have occurred within any twelve (12) month period since the issuance of the license;
 3. The licensee has retaliated against a tenant of the property under Sec. 32.15;
 4. The licensee has not made a good faith effort to comply with the nuisance abatement plan entered into under Sec. 25.09(3)(b)3 for more than ninety (90) days; or
 5. The continued rental of dwelling units at the property is contrary to the public interest.
- (6) Terms and Conditions of License. Each license issued or renewed shall have the following terms and conditions:
- (a) Licenses are not transferable. Licenses under this section are not transferable. If the licensee sells all or any part of his or her interest in the property, the license

terminates and the new owner is subject to this section as set forth in subsection (3).

- (b) Individual responsibility. Each owner of the property must separately apply for and obtain a license under this section, and each owner is individually responsible for complying with the terms and conditions of the license.
 - (c) Posting of license. A copy of the license must be provided to each tenant of the premises, and posted at all times in plain view in the common area of the premises. If no such area exists, the licensee must contact the Director of Building Inspection to determine an appropriate place to post the license that is visible to all residents and prospective residents of the premises.
 - (d) Information update. The licensee agrees to update any information contained on the license application form or license renewal form within ten (10) days of said change by providing written notice of said changes to the licensing authorities.
 - (e) Compliance with nuisance abatement plan. The licensee agrees to comply with the nuisance abatement plan reached under Sec. 25.09(3)(b)3.
 - (f) Inspection requirement. The licensee 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 licensee of the property if an inspection is scheduled and the inspector is prevented from accessing the property.
 - (g) Yearly training. The licensee agrees to attend a landlord training program within sixty (60) days of the expiration of the license, each year the license is up for renewal.
 - (h) Rental agreements required. The licensee agrees that each occupied dwelling unit, except for an owner-occupied unit, shall be subject to a rental agreement. The licensee agrees to forfeit the license 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 Licensing Requirement.
- (a) The owner of a property subject to the requirements of this section, may apply to the licensing authorities to terminate the requirement that he or she obtain a license to rent, or offer for rent, the property. This can be done upon a showing by the owner, verified by the licensing 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 Section 25.09(3)(b)3;
 - b. Fully complied with all the terms and conditions of the license 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 licensing authorities.
 - (b) Upon the owner meeting the requirements of subdivision (a), the licensing authorities shall provide the Clerk notice that the property is no longer subject to the licensing requirements of this section.
- (8) Fees.

- (a) Application fee. Each applicant for a license shall pay the Clerk two hundred and fifty dollars (\$250). However, if there are multiple owners to a property, the second and subsequent applicant shall pay the Clerk one hundred dollars (\$100).
- (b) Renewal fee. Each licensee submitting a renewal application shall pay the Clerk fifty dollars (\$50).
- (c) Late charge. If an applicant for a license or an owner attempting to renew his or her license under this section fails to file the application or renewal request 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 licensing authorities.
- (10) Appeal. The provisions of Section 9.49, MGO apply to the review of administrative determinations made by the Clerk or the licensing authorities pursuant to this section.
- (11) Penalty.
 - (a) Renting without a license. Anyone subject to this section who violates the licensing requirement of subsection (4) shall be subject to a forfeiture of not less than one 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 license 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. Creating Paragraph 10. of Subdivision (a) of Subsection (3) entitled “Procedure” of Section 25.09 entitled “Chronic Nuisance Premises” of the Madison General Ordinances to read as follows:

“10. A statement that the Premises owner must comply with the licensing requirements of Sec. 9.25 of the Madison General Ordinances if the owner is renting, or offering for rent, the Premises and that the owner must apply for a landlord license 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 license</u>	<u>9.25(4)</u>	<u>\$500 1st; \$1000 2nd; \$2500 3rd +</u>
<u>Failure to post license</u>	<u>9.25(6)(c)</u>	<u>\$100 1st; \$500 2nd; \$1000 3rd +</u>
<u>Failure of licensee to update information</u>	<u>9.25(6)(d)</u>	<u>\$100 1st; \$500 2nd; \$1000 3rd +</u>
<u>Failure to comply with abatement plan</u>	<u>9.25(6)(e)</u>	<u>\$100 1st; \$500 2nd; \$1000 3rd +</u>
<u>Failure to comply with inspection requirement</u>	<u>9.25(6)(f)</u>	<u>\$100 1st; \$500 2nd; \$1000 3rd +”</u>

4. Amending 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;

Section 9.25, Licensing of Landlords of Chronic Nuisance Properties; 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.