



NPPO Evaluation

Nuisance Party Prohibited Ordinance Evaluation

Victoria Kent and Claudia Habib

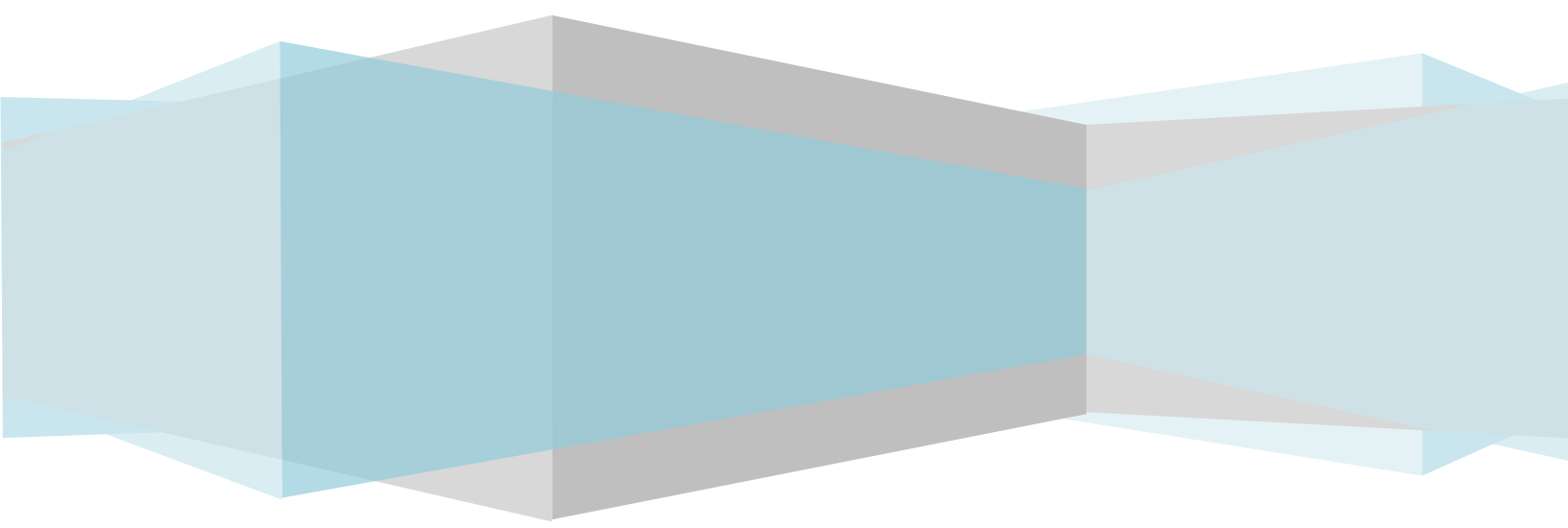
Other contributors: Jeffery S. Lafferty, Jenny Lujan, and Jennifer Weitzel

August 2014

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SUMMARY



NUISANCE PARTY PROHIBITED ORDINANCE (NPPO) EVALUATION *August 2014*

Research

- Nuisance party laws have the potential to reduce harm from excessive alcohol use as a part of a comprehensive strategy to improve the quality of life in our community.
- Police data from 2010-2012 was analyzed to establish a baseline and similar data from 2012-2104 was analyzed for comparison.
- A phone survey of property owners was conducted to assess knowledge of the NPPO and if it affected the language used in lease agreements.
- Stakeholders, i.e., City of Madison staff and property owners, were engaged for qualitative data.

Analysis

- Metrics and a process are not in place to evaluate the NPPO:
 - No system to accurately track house parties
 - 44% of police data lacked complete information about violations that may be related to house parties
 - Indications that there is little buy in from stakeholders, i.e., City of Madison staff and property owners, to enforce and adhere to the policy
- A substantial clustering of law violations continue to occur in the downtown areas of the city in either licensed alcohol establishments or in public spaces, and would not be impacted even if the ordinance were enforced to its fullest extent.
- As a result of the previous bulleted information, it is not possible to evaluate any potential impact of the NPPO.

Recommendations

It's not possible to effectively assess the potential impact of the NPPO because of incomplete recording of necessary information for evaluation purposes, and little participation of the stakeholders to adhere or enforce the ordinance. Therefore it is recommended that the NPPO is not renewed and potentially replaced with a more effective ordinance that can be more successfully communicated, enforced, and evaluated.

However, if the decision is to renew the NPPO, then it's important:

- To change the criteria for the annual review of the ordinance to include guidelines that can accurately measure intended outcomes, are feasible, and correlate to how police data is currently measured (or could be measured), and;
- That it's purpose and the extent to which it can contribute to alcohol harm reduction needs to be explicitly stated as part of an overall comprehensive and evidence based strategic plan.

Nuisance Party Prohibited Ordinance Evaluation

By: Victoria Kent and Claudia Habib

BACKGROUND

The “Nuisance Party Prohibited” Ordinance (NPPO), Section 25.10 of the Madison General Ordinances (Appendix A) was passed in March of 2012 as means for police “to quickly and efficiently abate” activities deemed a threat to public health, safety and welfare due overconsumption of alcohol, dangerous overcrowding and excessive noise levels. The impetuses for this ordinance were police observations, media attention and the issuing of large fines, often to repeat offenders.

When responding to a social gathering at which alcohol is present, the responding officer may issue a number of different law violations (Figure 1) as evidence that the gathering rises to the level of a nuisance party. Within ten days of a nuisance party declaration, the police department will send the property owner, tenant(s) and alderperson a copy of the declaration that may result in a fine. The property owner, tenant(s), city attorney, and police must meet to discuss an abatement plan for future nuisance party activities; and if the meeting reveals good faith efforts to abate future nuisance activity, the property owner may not be subject to a fine. The same process occurs after the second violation. In the event a third nuisance party is declared to the same tenant(s) and same property owner in a six-month period, the property owner is subject to a fine. All fines range from \$100 to \$5000

Law Violations

1. 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 Wis. Stat. § 125.04(1).
2. Procuring for or furnishing alcohol beverages to underage person as provided in Sec. 38.031, MGO or Wis. Stat. § 125.07(1)(a)1.
3. Procuring for, selling, dispensing or giving away alcohol beverages to a person who is intoxicated as provided in Sec. 38.04(1)(a)1, MGO or Wis. Stat. § 125.07(2)1.
4. Possessing or consuming alcohol beverages from an open container on a public street or alley as provided in Sec. 38.07(7), MGO.
5. Knowingly permit or fail to take action to prevent the illegal consumption of alcohol by an underage person as provided in Sec. 38.031, MGO or Wis. Stat § 125.07(a)(a)3.
6. The production or creation of noises disturbing the peace, as prohibited by Sec. 24.04, MGO.
7. Violation of fire codes due to overcrowding as provided in Sec. 34.01, MGO.
8. Throwing of stones or other missiles or other items as provided in Sec. 25.21, MGO.
9. Obstructing stairways and entrances to buildings as provided in Sec. 24.07, MGO.
10. Obstruction of streets and sidewalks as provided in Sec. 10.23(1), MGO.
11. Disorderly conduct as provided in sec. 24.02, MGO or Wis. Stat § 947.01.
12. Depositing human waste as provided in Sec. 7.321, MGO.
13. Damage to property as provided in Sec. 23.06, MGO or Wis. Stat. § 943.01.
14. Unlawful depositing of trash or litter as provided in Sec. 7.32, MGO.
15. Battery as provided in Sec. 24.05, MGO or Wis. Stat. § 940.19.
16. Endangering safety by use of a dangerous weapon as provided in Wis. Stat. § 941.20.
17. Recklessly endangering safety as provided in Wis. Stat. § 941.30.

NPPO EVALUATION

EVALUATION METHODOLOGY

Public Health Madison & Dane County (PHMDC) recruited an intern with strong statistical analysis skills through the Area Health Education Consortium’s Summer Community Health Internship program to conduct the evaluation. The work of the intern was overseen by two public health nurses in consultation with Mark Woulf, the City of Madison’s Alcohol and Food Policy Coordinator. Two additional interns were recruited half-way through the evaluation to provide extra capacity. The evaluation sought to answer the questions as outlined in the NPPO ordinance:

- 1) Number of house parties dispersed by police
- 2) Number of citations issued relating to house parties
- 3) Average and maximum fines imposed for a house party
- 4) Number of parties deemed a nuisance under this ordinance.

The language in the ordinance also stipulates that the data be presented by police district. The evaluation team constructed a logic model (Figure 2) and evaluation matrix (Figure 3) to guide the process.

Program: Nuisance Party Prohibited Ordinance Logic Model

Situation: There are house parties that have been deemed a nuisance by the community. They pose a substantial risk to the health and safety of the community and disrupt the peace and tranquility of the neighborhood. This problem exists for the community and the surrounding neighborhood. The Madison Common Council, the police, and the community at large care whether this is resolved or not. We know that underage and binge drinking is a very common, albeit complex, problem especially in Madison, Wisconsin; and we know that public nuisance laws have the potential to reduce harm from excessive drinking as a component of a multifaceted community strategy with generally successful results.

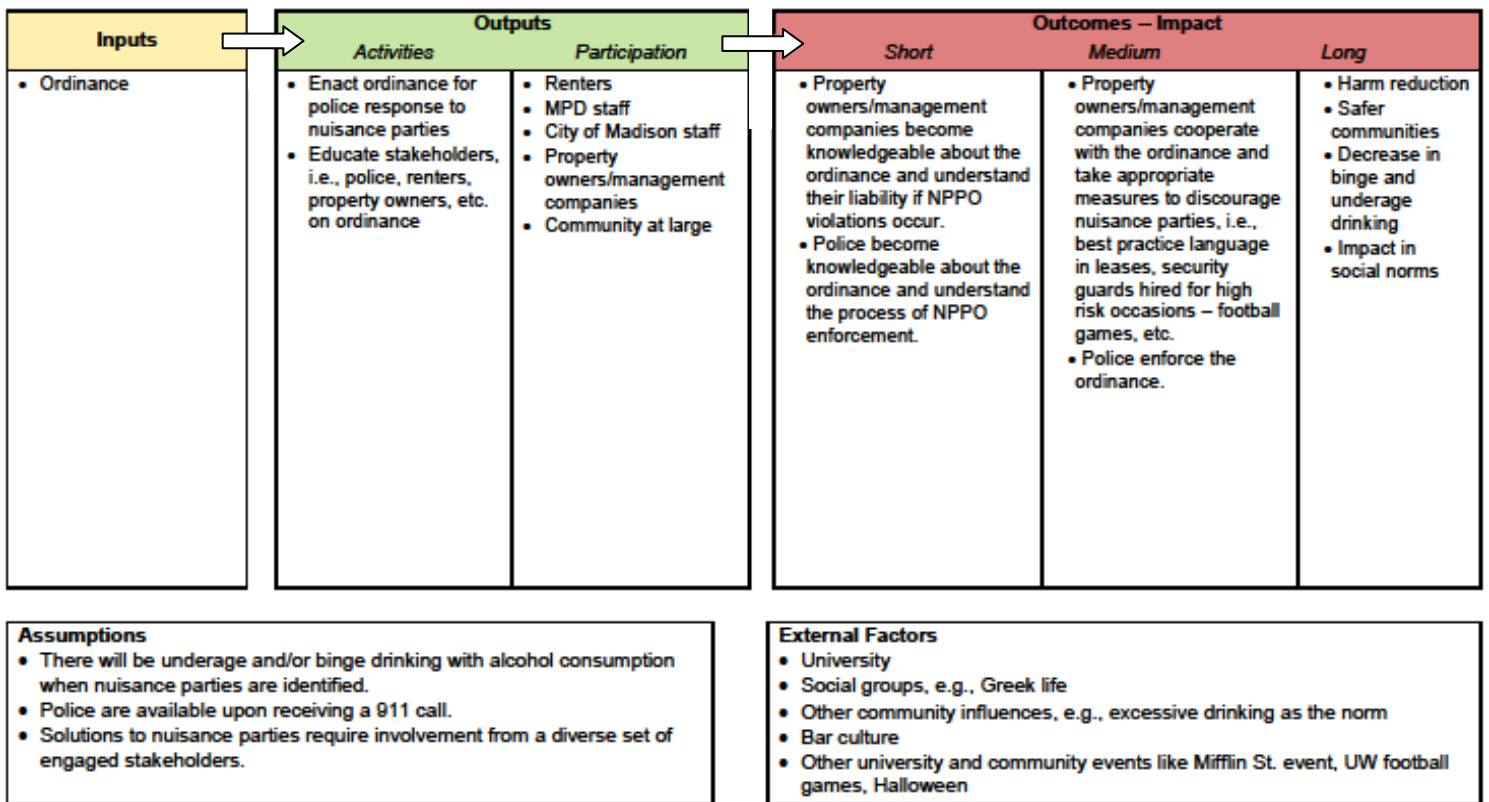


Figure 2

NPPO EVALUATION

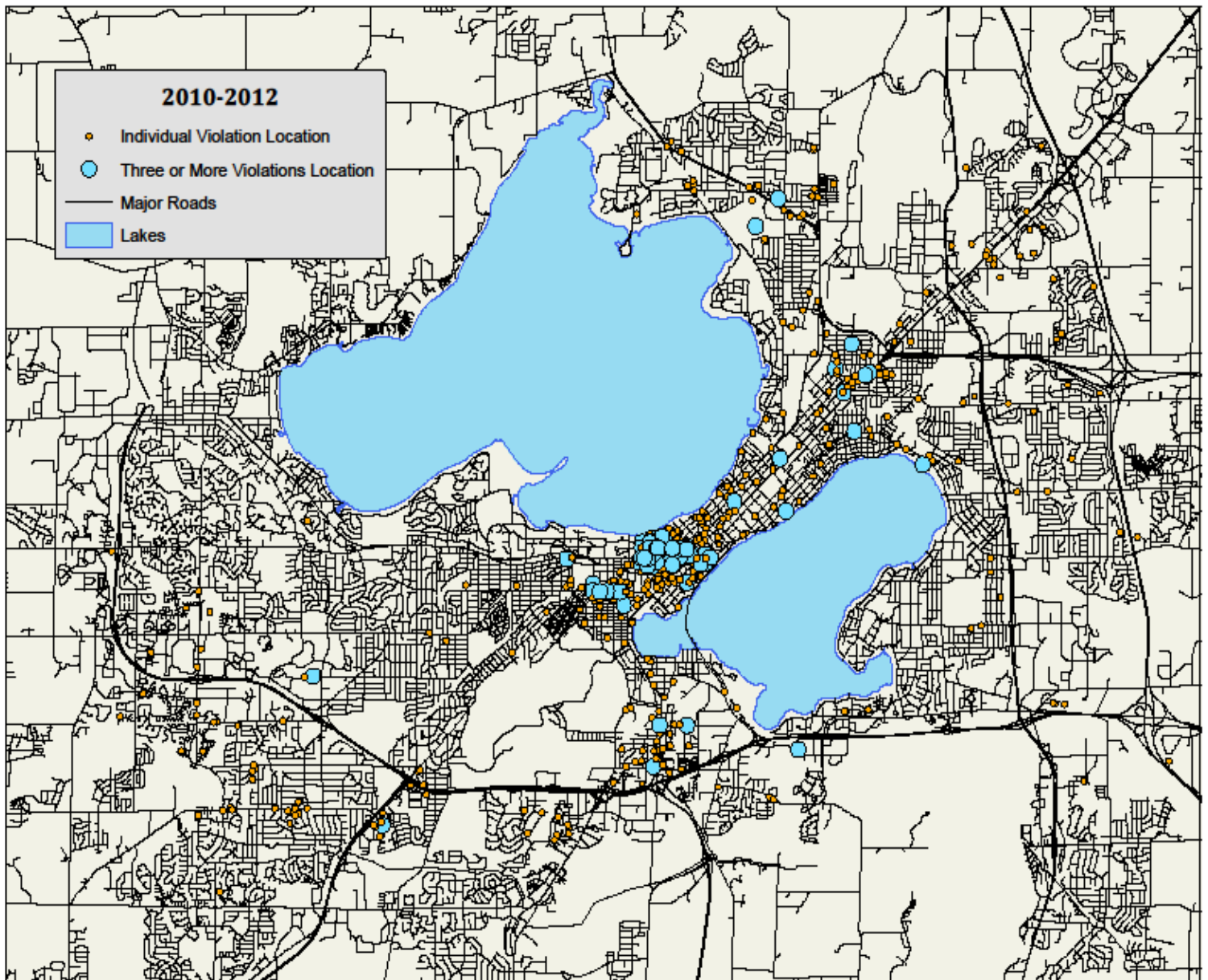
Focus: Short Term Outcomes				
Goals	Indicators: How will we know we are meeting the goal? What do we measure?	Data Sources: Where do we get the data for the indicators in column 2?	Methods: Quantitative (reports, databases, surveys, etc.) or Qualitative (interviews, focus groups)	Timeline: What is the deadline for collecting this data?
Property owners become knowledgeable about the ordinance and understand their liability if NPPO violations occur.	a) Number or percent with increased knowledge of the ordinance b) Number or percent of leases changed as a result of the NPPO	a) Surveys of property owners, b) Changes in language in lease agreement	a) 3 question phone survey of property management companies/owners	August 1
Police become knowledgeable about the ordinance and understand the process of NPPO enforcement.	a) Number or percent with increased knowledge of the ordinance b) Number or percent with understanding of NPPO enforcement process	a) Surveys of police b) Interviews with district captains	a) Qualitative surveys b) Key information interviews	August 1
Focus: Medium Term Outcomes				
Goals	Indicators: How will we know we are meeting the goal? What do we measure?	Data Sources: Where do we get the data for the indicators in column 2?	Methods: Quantitative (reports, databases, surveys, etc.) or Qualitative (interviews, focus groups)	Timeline: What is the deadline for collecting this data?
Police enforce the ordinance.	Number, location, time, and specific violation of citations written	Police data from the time the ordinance was enacted until present (2 years) and corresponding data from 2 years prior to the enactment of the ordinance	Quantitative: police citation database	August 1
Property owners cooperate with the ordinance and take appropriate measures to discourage nuisance parties	Whether the language of the leases is changing to mirror the ordinance	a) Surveys of property owners, b) Changes in language in lease agreement	a) & b) A 3 question phone survey of property management companies/owners	August 1

Figure 3

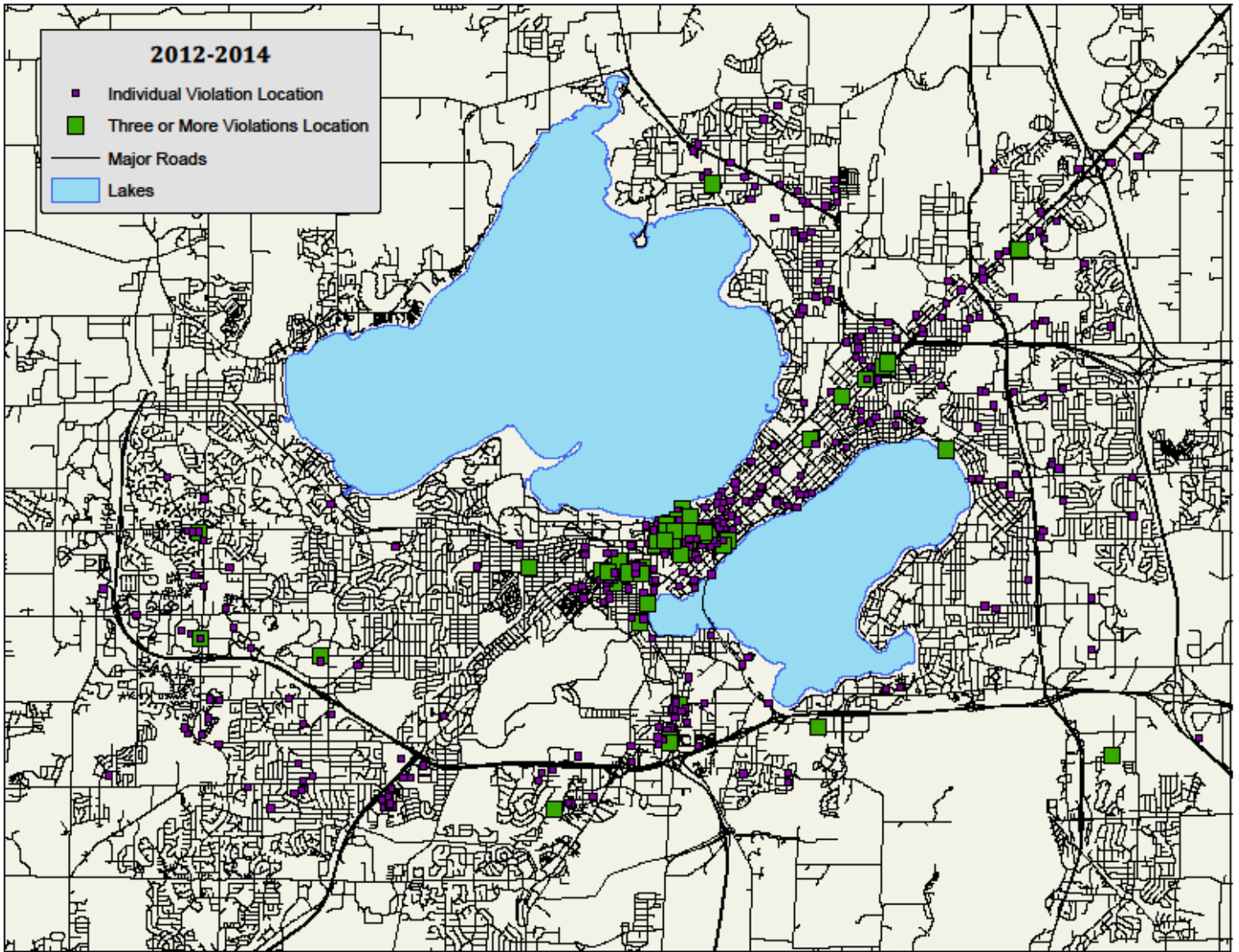
NPPO EVALUATION

The evaluation team chose to analyze all of the law violations that could prompt a nuisance party citation (Figure 1) from the time the ordinance was enacted until the present – this resulted in two years of data. For comparison, the same data was requested for the two years prior to the ordinance to allow the evaluation of potential effectiveness. Because the ordinance is aimed at reducing routine house parties, citations that were issued at an address that corresponded to a bar or restaurant or that occurred during the Mifflin Street block party and Halloween were removed. A member of the evaluation team looked up the remaining addresses on the City of Madison Assessor’s website to determine whether the address was residential or commercial.

The citations were then geocoded onto a map of the City (Figure 4).



Pre NPPO



Post NPPO

Figure 4

NPPO EVALUATION

To determine the potential effect of the ordinance on the engagement of property owners a telephone survey was conducted by the interns (Figure 6). Question 2 was developed after consulting with the city attorney about what language is appropriate for a lease agreement:

1. Are you aware of the NPPO?
2. Does your lease currently have a boilerplate language that covers tenant behavior in broader terms rather than one specific ordinance, such as: "...Tenant agrees and promises...as follows: To use the premises for residential purposes only by Tenants named on the lease; To not make excessive noise or engage in activities which unduly disturb neighbors or other tenants in the building in which the Premises are located..." etc.? If not, have you modified your lease due to this ordinance?
3. Have you initiated any other practices outside of the lease agreement in effect of the ordinance? For example, higher level of policing, pamphlets, etc.?

A list of Madison property owners was obtained from the Colombia-Dane County Tobacco Free Coalition's membership to the Apartment Association of South Central Wisconsin. Of the 175 Madison landlords and property managers, 69 were contacted from which 35 responses were obtained; a response rate of approximately 50%. The property owners/managers to whom we spoke represent an estimated 7,500 of the 40,000 rental units in Madison (approximately 19% of rental units).

FINDINGS

Due to the large number of violations it was too time intensive for the police department to organize the data by police district.

1) The number of house parties dispersed by police:

This was not measurable. There is no system to track house parties. The data suggests that the ordinance was either not enforced or documentation was not recorded or available to adequately evaluate this variable. Therefore, using the NPPO citations as a proxy for house parties is not valid.

2) Number of citations issued relating to house parties:

This was not measurable. The total number of reported law violations (as stated in Figure 1) that occurred at residential addresses between March 2010 and March 2014 could not be accurately determined as 44% of the data either lacked a complete address (approximately 17%) or had no property description available (approximately 27%) on the City of Madison Assessor's website (Figure 5). Even for law violations issued at a viable address, it was not possible to determine whether or not they were the result of a house party and, in several cases, if the violations were even related to alcohol consumption.

Percentage of Total- All Years

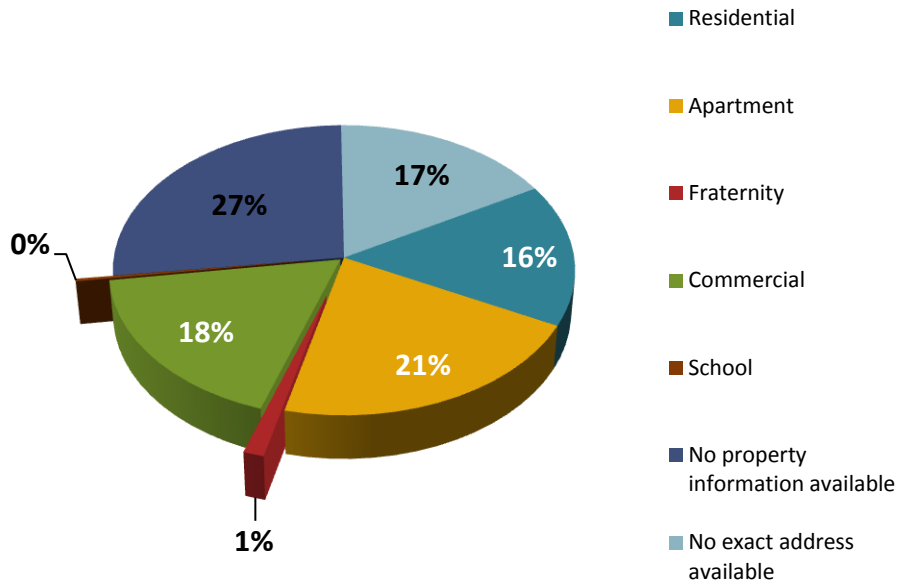


Figure 5

3) The average and maximum fines imposed for a house party:

This information was not attainable as again, there is no system to track house parties. The fines associated with the NPPO declarations were requested by the evaluation team but were not provided by the city attorney’s office.

4) Number of parties deemed a nuisance under this ordinance:

Two

ADDITIONAL FINDINGS

NPPO Citations & Police perspectives

Information regarding the issuance of NPPO citations is housed in the city attorney’s office and not with the police department. The only information obtained from the city attorney’s office was that there were two NPPO citations issued over the last two years at two separate locations. The city attorney’s office provided no further information with regard to the responding officer(s), exact locations of the citations, the law violations that prompted the citations or whether or not any fines were issued.

The evaluation team determined that establishing a baseline of police officers’ understanding of the ordinance was beyond the scope and capacity of this evaluation and would not add value to the investigation. During our conversation with a lieutenant from the Madison Police Department, it was speculated that the police officers were not likely to use the ordinance due to high police turnover, the capacity of the police department to write citations during high call-to-service times, and the extensive process of the ordinance. The logistics of issuing the citation is cumbersome and while the police write the citations, the city attorney’s office is responsible for follow up. The lieutenant also speculated that issuing any of the 17 violations related to the ordinance and using the threat of a NPPO violation may be adequate incentive for tenants to cease nuisance activities. MPD also

NPPO EVALUATION

provided NPPO education and outreach for tenants but they don't track or have a mechanism to evaluate the impact of those efforts.

Property owners/managers

An overwhelming majority of the property owners did not change their policies as a result of the ordinance. Many already had policies such as community rules and regulations in place before the ordinance, and did not feel the need to modify them. Among the exceptions was a property management company with over 90 properties around Madison. They made changes in their lease to specifically address the NPPO. Another landlord, who works for the largest property management company (over 3500 properties) in the Madison area, mentioned that they modified their practices after the NPPO had passed by hiring a security guard company to increase levels of policing during football games and holidays such as Halloween. The third policy change reported was a landlord that had banned kegs from buildings following the ordinance.

"I don't handle anything with the lease, my attorney is responsible for making sure I am following by City Ordinances"
– Madison property manager

Question 1: Are you aware of the NPPO	
YES	NO
20	15
57%	43%

Question 2: Does your lease currently have a boilerplate language that covers tenant behavior in broader terms rather than one specific ordinance, such as: "...Tenant agrees and promises...as follows..."	
YES	NO
30	5
86%	14%

Of those who had boilerplate language...	
Were aware of the ordinance	Were not aware of the ordinance
17	13
57%	43%

Of those who <u>did not</u> have boilerplate language...	
Modified their lease to fit the NPPO	Did not modify their lease to fit the NPPO
0	5 (2 of whom were aware of the ordinance)
0%	100%

Question 3: Have you initiated any other practices outside of the lease agreement as a result of the ordinance?	
YES	NO
3	32
9%	91%

Figure 6

Of the 35 surveyed, five did not have boilerplate language; no one modified their lease to include the ordinance.

DISCUSSION

A variety of factors influenced the strength and capacity of the evaluation to ascertain the effectiveness of the ordinance:

1) Data:

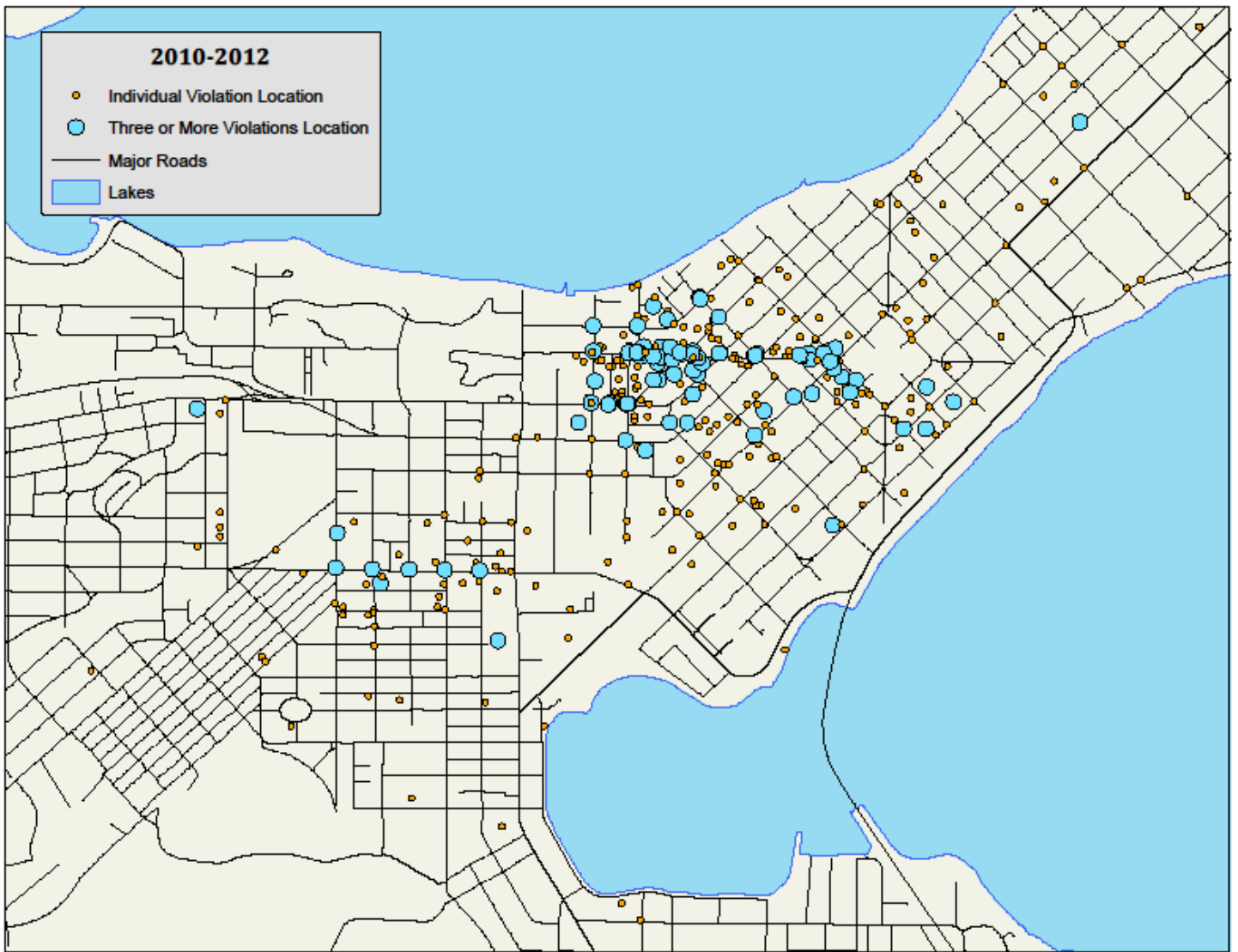
The data was fraught with problems that limited the ability to adequately evaluate the effectiveness of the NPPO. First, there were a significant number of citations for which there was not a complete address recorded or had no property information available from the City of Madison Assessor's website. This was observed during each of the years included in the evaluation timeframe which severely limited the ability to accurately categorize the type of address where the citation was issued

Second, for violations where it was possible to determine that the location was residential, there was no further evidence to suggest that a house party had occurred. Therefore, the 17 alcohol-related violations (Table 1) are not valid proxies for "house parties" or even an alcohol-related event. Furthermore, by not including metrics for house parties that required a call for service but did not result in a citation, the number of house parties occurring in Madison would likely be underestimated and limit the ability to determine any deterrence related to the NPPO.

2) Effectiveness:

A substantial clustering of law violations continue to occur in the downtown areas of the city in either licensed alcohol establishments or in public spaces (Figure 7) and would not be impacted even if the ordinance were enforced to its fullest extent.

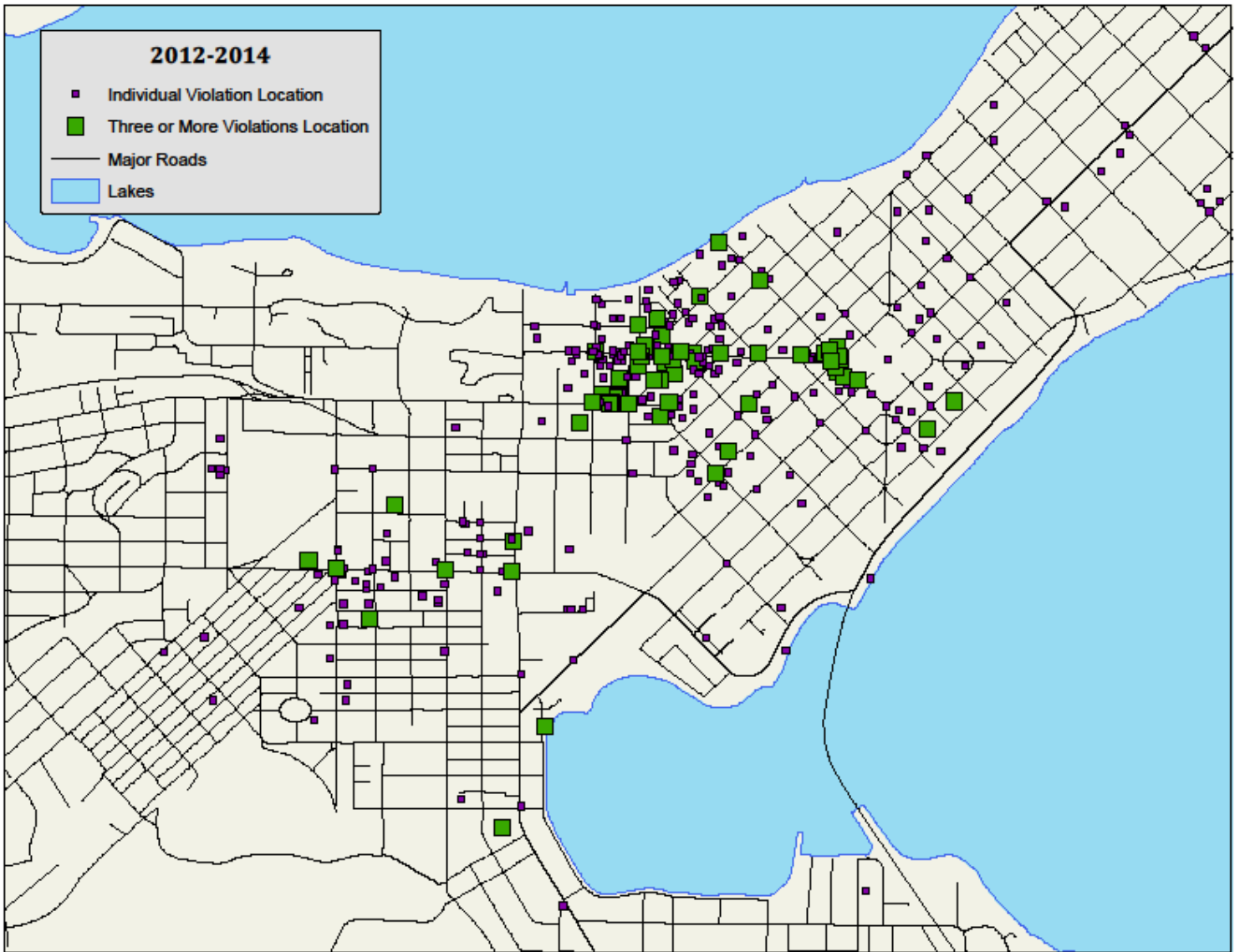
NPPO EVALUATION



Pre NPPO

Figure 7

NPPO EVALUATION



Post NPPO

Figure 7

3) Stakeholders:

The success of any public policy is contingent on the willingness of relevant stakeholders to enforce and adhere to the policy. Our interactions throughout this evaluation would indicate that there is little buy-in from the stakeholders for this ordinance. The interns were subject to rude comments by the property owners/managers when conducting the survey, many messages went unreturned and, in some cases, the property managers simply hung up. Furthermore, there was no feasible mechanism in place to receive feedback from a key stakeholder group potentially impacted by the NPPO: renters. And, for reasons that are only speculative, police officers are not issuing NPPO declarations.

A feasible mechanism for data sharing to determine the ordinance's short and medium outcomes on premise owner knowledge and behavior was not in place for this evaluation. Building Inspection denied the evaluation team's request for premise owners' contact information; it was serendipitous to get a list of property owners from the Colombia-Dane County Tobacco Free Coalition. And while the police department and city attorney demonstrated some engagement with the evaluation process, i.e., law violation data indicative of the presence of a nuisance party and boilerplate language was provided, full engagement may have provided more robust information on NPPO violations and the process for police enforcement.

4) Capacity:

The staff capacity needed to complete this evaluation far exceeded what was anticipated. This was largely a result of the factors discussed in points 1 and 3 above. Ultimately, conducting the evaluation required: 1 full-time intern, 2 part-time interns, 2 public health nurses, 1 epidemiologist, and 1 Applied Population Health staff scientist.

RECOMMENDATIONS

It's not possible to effectively assess the potential impact of the NPPO because of incomplete recording of necessary information for evaluation purposes, and little participation of the stakeholders to adhere or enforce the ordinance. Therefore it is recommended that the NPPO is not renewed and potentially replaced with a more effective ordinance that can be more successfully communicated, enforced, and evaluated.

However, if the decision is to renew the NPPO, then it's important:

- To change the criteria for the annual review of the ordinance to include guidelines that can accurately measure intended outcomes, are feasible, and correlate to how police data is currently measured (or could be measured), and;
- That its purpose and the extent to which it can contribute to alcohol harm reduction needs to be explicitly stated as part of an overall comprehensive and evidence based strategic plan.

"I've been disappointed with the city, I was hoping that this ordinance would decrease the amount of parties on our properties, or that they would be issuing more citations, but they haven't been" -Mifflin St. property owner

Appendix A

CITY OF MADISON, WISCONSIN

AMENDED 3rd SUBSTITUTE ORDINANCE _____

PRESENTED July 19, 2011
 REFERRED PSRC

Creating Section 25.10 of the Madison General Ordinances to prohibit Nuisance Parties and amending Section 1.08(3)(a) of the Madison General Ordinances to establish bail amounts for this section.

LEGISTAR # 23310

Drafted by: Jennifer Zilavy

Date: February 29, 2012

SPONSORS: Alder Skidmore

DRAFTER'S ANALYSIS: This creates Section 25.10 of the Madison General Ordinances. This section creates a definition of "nuisance party." There is not a specific criteria-based definition of "nuisance party" due to the fact that police need to have flexibility to meet the myriad of different situations that occur in the context of such parties. It is essential that police have discretion and are not hemmed in by bright line rules. When a nuisance party is declared, all nuisance activity must cease immediately. This ordinance establishes penalties for failure to cease the nuisance party and for allowing the nuisance party. This ordinance directs the police to provide notice of the nuisance party declaration to the premise owner and tenants and requires the premise owner and tenants to meet with the Madison Police Department within 10 days to discuss the nuisance party. The ordinance also requires the landlord and tenants to take appropriate measures to prevent future nuisance parties at the premise. A penalty is provided for premise owners who, within six (6) months of the initial notification of a nuisance party declaration, have a subsequent nuisance party declaration at the same premise.

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

1. Section 25.10 entitled "Nuisance Party Prohibited" of the Madison General Ordinances is created to read as follows:

***25.10 NUISANCE PARTY PROHIBITED.**

- (1) Findings. The Madison Common Council finds that there are parties occurring on premises located throughout the city, which are unsafe and are public nuisances to our community. These parties involve large amounts of alcohol beverages that are illegally sold and/or provided to individuals in attendance, including underage individuals. These parties often result in excessive noise levels, dangerous overcrowding of the premise and excessive consumption of alcohol, as well as other law violations
- (2) Nuisance parties create a substantial risk to the health and safety of the community and disrupt the peace and tranquility of the neighborhood. This ordinance provides a method for Police to quickly and efficiently abate a nuisance party and provides penalties to those responsible for hosting the parties.
- (3) Definitions. For purposes of this section:
 - (a) "Nuisance Party" means a social gathering at which alcohol is present and/or consumed, that, by reason of the conduct of persons in attendance, results in violations of the Madison General Ordinances ("MGO") and/or Wisconsin State Statutes ("Wis. Stat.") and is one in which such violations occur at the site of the social gathering or on neighboring public or private property. Such violations must be associated with or substantially relate back to the social gathering occurring at a specific address. The determination that a gathering is a nuisance party shall be based upon the totality of the

Approved as to form:

circumstances and consideration of all the facts, the context and reasonable suspicion that the activities pose a danger to the public health, safety and welfare. In making the determination, the police may use the following law violations as evidence of a nuisance party:

1. 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 Wis. Stat. § 125.04(1).
 2. Procuring for or furnishing alcohol beverages to underage person as provided in Sec. 38.031, MGO or Wis. Stat. § 125.07(1)(a)1.
 3. Procuring for, selling, dispensing or giving away alcohol beverages to a person who is intoxicated as provided in Sec. 38.04(1)(a)1, MGO or Wis. Stat. § 125.07(2)1.
 4. Possessing or consuming alcohol beverages from an open container on a public street or alley as provided in Sec. 38.07(7), MGO.
 5. Knowingly permit or fail to take action to prevent the illegal consumption of alcohol by an underage person as provided in Sec. 38.031, MGO or Wis. Stat. § 125.07(a)(a)3.
 6. The production or creation of noises disturbing the peace, as prohibited by Sec. 24.04, MGO.
 7. Violation of fire codes due to overcrowding as provided in Sec. 34.01, MGO.
 8. Throwing of stones or other missiles or other items as provided in Sec. 25.21, MGO.
 9. Obstructing stairways and entrances to buildings as provided in Sec. 24.07, MGO.
 10. Obstruction of streets and sidewalks as provided in Sec. 10.23(1), MGO.
 11. Disorderly conduct as provided in Sec. 24.02, MGO or Wis. Stat. 947.01.
 12. Depositing human waste as provided in Sec. 7.321, MGO.
 13. Damage to property as provided in Sec. 23.06, MGO or Wis. Stat. 943.01.
 14. Unlawful depositing of trash or litter as provided in Sec. 7.32, MGO.
 15. Battery as provided in Sec. 24.05, MGO or Wis. Stat. 940.19.
 16. Endangering safety by use of a dangerous weapon as provided in Wis. Stat. 941.20.
 17. Recklessly endangering safety as provided in Wis. Stat. 941.30.
- (b) "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.
- (c) "Premise" means a place of abode, a residence, a house or multiple dwelling unit for 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.
- (4) Duty to Control Premise. Any person who is an owner, occupant, tenant, or otherwise has rightful possession or possessory control, individually or jointly with others, of any premise, who either sponsors, conducts, hosts, invites, or permits a social gathering or party on said premise which is or becomes a nuisance party, as defined in sub. (2)(a) of this ordinance, and which nuisance is either the intentional result of, or within the reasonable expectations of, the person or persons having such possessory control, is deemed to be a violation of this section.
- (5) Order to Cease and Disperse. All participants at any social gathering declared by a police officer to be a nuisance party shall immediately cease participating in that nuisance activity and disperse immediately upon such order of a police officer, and all persons not residing at the premise shall leave immediately. Any person who fails or refuses to obey such an order shall be guilty of a violation of this section.
- (6) Notice of Nuisance Party Declaration.
- (a) Within ten (10) days of a Nuisance Party Declaration, the police department shall send the premise owner and tenants a Notice of Nuisance Party Declaration. A copy of the notice shall be sent to the alderperson of the district in which the premise is located. The notice shall set forth the date, place, names of occupants/tenants involved, nature

of the violation and shall inform the premise owner and tenants of the necessity to take action to prevent future nuisance parties at the premise. The Notice shall require the premise owner and tenants to contact the Madison Police Department District Captain or his/her designee and the City Attorney or designee and schedule a meeting within ten (10) days after receipt of the Notice. The Notice shall be given by first class mail using the premise owner's address that is on file with the City of Madison Assessor's records and shall be mailed to the tenants at the nuisance party address.

1. Prior to notice to the premise owner, all police reports relating to the incident shall be reviewed by the District Captain or his/her designee to determine whether the facts alleged support declaring a social gathering a "nuisance" given the totality of the circumstances.
 2. A premise owner(s) and/or tenant(s) who contact and meet with the District Captain and City Attorney pursuant to a Notice of Nuisance Party Declaration shall not be subject to a forfeiture for "Allowing a Nuisance Party" for a first nuisance party declaration. Failure to make contact and meet with the Police Department and the City Attorney shall result in a forfeiture for each premise owner and tenant pursuant to sub. (7) of this ordinance.
 3. If the premise owner meets as set forth in sub. 2., the premise owner shall present an acceptable abatement plan to abate future nuisance party activity at the premise and shall provide written detail as to what measures the premise owner plans to take regarding the abatement of future nuisance party activity. If a premise owner is actively and in good faith working with the District Captain and the City Attorney to abate nuisance party activity, the premise owner shall not be subject to further forfeiture actions under this ordinance.
- (b) If a subsequent nuisance party is declared at the same premise within a six (6) month period and the same occupant(s)/tenant(s) are responsible for the second nuisance party, the police department shall send the premise owner and tenants a second notice of nuisance party ordinance violation within ten (10) days of the party and the premise owner and tenants may be charged with violating this ordinance and may be subject to the forfeiture stated in sub. (7) of this ordinance. A copy of the nuisance party declaration notice shall be sent to the alderperson of the district in which the premise is located.
1. Prior to a premise owner or tenant being charged with a violation of sub. (b), all police reports relating to the incident shall be reviewed by the District Captain or his/her designee to determine whether the facts alleged support charging the premise owner given the totality of the circumstances. In making a charging decision against the premise owner, the District Captain and the City Attorney shall also consider the good faith efforts of the premise owner in trying to abate the nuisance party activity and if the District Captain and City Attorney are satisfied that the premise owner is diligently working toward abating such activity, no charges shall be filed against the premise owner for ~~a~~ allowing a ~~third~~ second nuisance party.
 2. A premise owner shall be prohibited from delegating or otherwise assigning any forfeiture assessed against the premise owner under this subsection to any occupant/tenant of the premises where the violation occurred. Such delegation or assignment shall result in an additional violation of this section and subject the premise owner to further forfeiture action under sub. (6) of this ordinance.
- (c) If a third or subsequent party is declared at the same premise within a six- (6) month period and the same occupant(s)/tenant(s) are responsible for the third or subsequent nuisance party, the District Captain or his/her designee shall send the premise owner a third notice of Nuisance Party Declaration within ten (10) days of the party, and the premise owner may be charged with violating this ordinance and may be subject to the forfeiture stated in sub. (7) of this ordinance. A copy of the nuisance party declaration notice shall be sent to the alderperson of the district in which the premise is located.
1. Prior to a premise owner being charged with a violation of sub. (c), all police reports relating to the incident shall be reviewed by the District Captain or his/her designee to determine whether the facts alleged support charging the premise owner given the totality of the circumstances.

2. A premise owner shall be prohibited from delegating or otherwise assigning any forfeiture assessed against the premise owner under this subsection to any occupant/tenant of the premise where the violation occurred. Such delegation or assignment shall result in an additional violation of this section and subject the premise owner to further forfeiture action under sub. (7) of this ordinance.
- (7) **Penalty.** Any person violating this section may be subject to a forfeiture of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5000) for each violation.
- (8) **Severability.** The provisions of this section are severable. If any provision of this section is held to be invalid or unconstitutional or if the application of any provision of this section to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this section which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the Common Council that this section would have been adopted had any invalid or unconstitutional provision or applications not be included herein.
- (9) **Annual Review.** The effect of this ordinance shall be reviewed every year. In addition to any public feedback, a report shall be prepared by City staff, including the Alcohol Policy Coordinator and the Police Department and shared with the following committees: Alcohol License Review Committee; Housing Committee; Public Safety Review Committee and the Common Council. This review will be due December 1st of each year, with the first report due December 1st, 2012. This report will include:
- (a) information regarding house parties dispersed by the police;
 - (b) number of citations issued relating to house parties;
 - (c) the average and maximum fines imposed for a house party; and
 - (d) number of parties deemed a nuisance under this ordinance.
- This information should be organized by police districts. In addition, the report should include any qualitative information gathered by City staff on the subject of house parties in Madison that may be relevant to the various committees and Common Council.
- (10) This section shall expire and be of no legal effect on March 31, 2014, unless extended by the Common Council prior to the expiration date."

2. 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 creating therein the following:

<u>"Offense</u>	<u>Ord. No.</u>	<u>Deposit</u>
<u>Allowing a nuisance party.</u>	<u>25.10(3)</u>	<u>\$500</u>
<u>Failure to cease nuisance party activity.</u>	<u>25.10(5)</u>	<u>\$300</u>
<u>Premise owner's failure to prevent nuisance party activity after receiving 2nd notice of nuisance party.</u>	<u>25.10(6)</u>	<u>\$500</u>
<u>Failure to contact & meet with Madison Police Department and City Attorney."</u>	<u>25.10(6)(a)3.</u>	<u>\$1,000</u>

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