



City of Madison

City of Madison
Madison, WI 53703
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Master

File Number: 04196

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File Type: Ordinance

Status: Held in Committee

Version: 1

Reference:

Controlling Body: EQUAL
OPPORTUNITIES
COMMISSION

Requester: PUBLIC SAFETY
REVIEW BOARD

Cost:

Introduced: 07/20/2006

File Name: SECOND SUBSTITUTE - Creating Section 25.09 of
the Madison General Ordinances to establish that
certain premises may be declared Chronic Nuisance
Premises.

Final Action:

Title: Creating Section 25.09 of the Madison General Ordinances to establish that certain
premises may be declared Chronic Nuisance Premises.

Notes: 3982chronic

INTRO FROM FLOOR

Code Sections:

Agenda Date: 06/05/2007

Indexes:

Agenda Number: 158.

Sponsors: Tim Bruer

Enactment Date:

Attachments: FAQChronicNuisancePremisesOrd.pdf,
04196-Version2.pdf, 04196-Vesion3.pdf

Enactment Number:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	COMMON COUNCIL	07/18/2006	Refer	PUBLIC SAFETY REVIEW BOARD		04/10/2007	Pass
1	Attorney's Office/Approval Group	07/20/2006	Approved As To Form				
1	Attorney's Office	07/20/2006	Fiscal Note Required / Approval	Comptroller's Office/Approval Group		04/11/2007	
1	Comptroller's Office/Approval Group	07/26/2006	Fiscal Note Pending	PUBLIC SAFETY REVIEW BOARD		07/26/2006	
1	PUBLIC SAFETY REVIEW BOARD	03/13/2007	Refer	Attorney's Office		04/03/2007	Pass
2	Attorney's Office/Approval Group	04/03/2007	Approved As To Form		04/04/2007		
2	Attorney's Office	04/03/2007	Fiscal Note Required / Approval	Comptroller's Office/Approval Group		04/11/2007	

3	PUBLIC SAFETY REVIEW BOARD	04/10/2007	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER			Pass
2	Comptroller's Office/Approval Group	04/11/2007	Approved Fiscal Note By The Comptroller's Office (SUBSTITUTES)	PUBLIC SAFETY REVIEW BOARD		04/11/2007
3	Attorney's Office/Approval Group	04/11/2007	Approved As To Form			
3	Attorney's Office	04/11/2007	Fiscal Note Required / Approval	Comptroller's Office/Approval Group		04/11/2007
3	Comptroller's Office/Approval Group	04/11/2007	Approved Fiscal Note By The Comptroller's Office (SUBSTITUTES)	PUBLIC SAFETY REVIEW BOARD		04/11/2007
3	COMMON COUNCIL	04/17/2007	Refer	EQUAL OPPORTUNITIES COMMISSION	06/05/2007	Pass
3	EQUAL OPPORTUNITIES COMMISSION	05/10/2007	RECOMMEND TO COUNCIL TO REREFER - REPORT OF OFFICER	EQUAL OPPORTUNITIES COMMISSION		
3	COMMON COUNCIL	06/05/2007	Rerefer	EQUAL OPPORTUNITIES COMMISSION		Pass
3	EQUAL OPPORTUNITIES COMMISSION	06/14/2007	Table			Pass

Text of Legislative File 04196

..Fiscal Note

[enter Fiscal Note here]

..Title

Creating Section 25.09 of the Madison General Ordinances to establish that certain premises may be declared Chronic Nuisance Premises.

..Body

DRAFTER'S ANALYSIS: This ordinance is another tool for the City Attorney's office to use to combat public nuisance activities. This ordinance clearly defines what constitutes nuisance activity and it allows for a faster and more efficient response time from the City regarding enforcement and abatement. The ordinance places the responsibility of abating nuisance activities on the property owner and establishes a cost recovery system for police and building inspection services for those properties deemed to be chronic nuisance properties. There is also a forfeiture provision for chronic nuisance premises.

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

Section 25.09 entitled "Chronic Nuisance Premises" of the Madison General Ordinances is created to read as follows:

"25.09 CHRONIC NUISANCE PREMISES.

The Madison Common Council finds that any premises that, within a thirty day (30) period, has generated three (3) or more calls for police services on three (3) separate days, and/or has generated five (5) or more cases from building inspection from at least five building inspections occurring within a one (1) year period,

and such calls resulted in enforcement action for nuisance activities, is deemed to have received and require more than general, acceptable level of police services and building inspection services, and places an undue and inappropriate burden on the taxpayers of the City. 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 and the cause of the nuisance activity can frequently be traced to tenants who have not been properly screened by property owners. This ordinance provides the City with a means of holding owners of nuisance premises accountable for costs associated with responding to and abating the nuisance activities. Therefore, the Common Council directs the Chief of Police or his or her designee, and the Director of the Building Inspection Unit or his or her designee, to charge the owners of such premises with the costs associated with abating the violations at premises where nuisance activities chronically occur.

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

(a) "Chronic Nuisance Premise" means a premise that:

1. Has generated three (3) or more calls for police services on three (3) separate days within a thirty (30) day period and/or has generated five (5) or more cases from building inspection from at least five building inspections occurring within a one (1) year period, with such calls resulting in enforcement action; or,
2. Premises on which or within 200 feet of which any person associated with the Premises has engaged in three (3) or more Nuisance Activities during any thirty (30) day period; or
3. Premises which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, distribution, or delivery of a controlled substance has occurred within the previous thirty (30) days and the Chief of Police or designee has determined that the search warrant was based on evidence of continuous or repeated Nuisance Activities at the Property; or
4. One enforcement action resulting from the manufacture or delivery of controlled substance or related offenses, as defined in Chapter 961 of the Wisconsin Statutes.

(b) "Enforcement" 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 building inspection to the City Attorney or District Attorney for prosecution.

(c) "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. Keeping, or aiding or assisting in keeping, or being an inmate of any disorderly house, as prohibited in Sec. 24.03, MGO.
4. Battery, substantial battery or aggravated battery as defined in sc. 940.19, Wis. Stats.
5. Indecent exposure as prohibited by Sec. 26.01, MGO or s. 944.20(1)(b) Wis. Stats.
6. Depositing rubbish as prohibited by Sec. 10.17, MGO.
7. Keeping a place of prostitution as defined in or s. 944.34, Wis. Stats.
6. Loitering for the purposes of prostitution as prohibited by Sec. 26.08, MGO.
9. Loitering for purposes of soliciting prostitutes, as prohibited by Sec. 26.085, MGO.
10. Possessing an open container which contains alcohol beverages or consuming alcohol beverages upon any public street as prohibited by Sec. 38.08(7) of these ordinances.
11. Theft as defined in s. 943.20, Wis. Stats.
12. Arson as defined in s. 943.02, Wis. Stats.
13. Possession, manufacture, distribution or delivery of a controlled substance or related offenses as defined in ch. 961, W is. Stats.
14. Illegal gambling as defined in s. 945.02, Wis. Stats.
15. Owning, keeping or harboring a dangerous animal, as defined in Sec. 25.22, MGO.
16. 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.

17. Damage to property as prohibited by Sec. 23.06, MGO.
 18. Discharge of a firearm as prohibited by Sec. 25.06, MGO.
 19. The production or creation of noises disturbing the peace, as prohibited by sec. 24.04, MGO.
 20. Obstructing a street or sidewalk, as prohibited by Sec. 10.23(1), MGO.
 21. Violations of the Minimum Housing Code, as prohibited by Sec. 27, MGO.
- (c) "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.
 - (d) "Person Associated With" means any person who, on the occasion of a Nuisance Activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner of a property.
 - (e) "Person in Charge" means any person, in actual or constructive possession of a property including but not limited to an owner or occupant of property under his or her ownership or control.
 - (f) "Chief of Police" means the City of Madison Police Department Chief of Police or designee.
 - (g) "Director of Building Inspection" means the City of Madison Building Inspection Unit director or designee.
 - (h) "Property" means any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure of any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, Property may be limited to the unit or the portion of the Property on which any Nuisance Activity has occurred or is occurring, but includes areas of the Property used in common by all units of the Property.

(2) Procedure.

- (a) Whenever the Chief of Police or the Director of Building Inspection finds a Property constitutes a Chronic Nuisance Property under subsection (1), the Chief of Police or the Director of Building Inspection shall provide written notice of his or her determination to the Property owner identified by the City of Madison Assessor's records for that Property. The notice shall be deemed delivered if sent either by first class mail to the Property owner's last known address or if delivered in person to the Property owner. If the Property owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the Property 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 notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the 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 notice shall contain the following information:
 1. Street address, parcel number or a legal description sufficient to identify the property.
 2. A concise statement, including a description of the relevant activities supporting the determination that the Property is a Chronic Nuisance Property. In reaching a determination that a Property is a Chronic Nuisance Property, activities that were reported to the police or Building Inspection by the Property owner shall not count as nuisance activities.
 3. A statement that the cost of future enforcement may be assessed as a special charge against the premises.
 4. A statement that the owner shall, within ten (10) days of receipt of the 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. If the owner responds to the notice in 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 in his or her discretion. The plan is acceptable if it can reasonably be expected to result in

- abatement of the nuisance activities described in the Notice, within sixty (60) days.
5. Any property owner who has been notified by the Chief of Police or the Director of Building Inspection that their premise is a Chronic Nuisance Premise must attend a landlord training approved by the Madison Police Department within thirty (30) days of said notification.
- (b) Whenever the Chief of Police or the Director of Building Inspection determines that:
1. The owner has failed to respond to the Notice in subdivision (a), or
 2. An additional nuisance activity has occurred at a property for which Notice has been issued pursuant to Subdivision (a) and
 3. Either this nuisance activity has occurred not less than 15 days after notice has been issued or a course of action submitted pursuant to Paragraph (a) 4 has not been completed, 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 City Comptroller. The Chief of Police and/or the Director of Building Inspection shall notify the property owner of the decision to refer the cost of enforcement. Delivery of this notice, along with a copy of the Chief's or Building Director's referral letter to the City Comptroller, 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 City Comptroller with a concise description of the nuisance activities and the relevant sections of the ordinances.
 - c. A notice of the premises owner's right to appeal pursuant to subsection 4.
- (c) Violation. Each subsequent incident of nuisance activity shall be deemed a separate violation.
- (3) 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 City Comptroller. The Comptroller shall annually prepare a statement of enforcement expenses for each premises reported by the Chief of Police and/or or the Director of Building Inspection and shall furnish the statement to the City Clerk. The Clerk shall enter the amount in the tax roll as a special charge against the lot or parcel of land occupied by the property and the charge shall be collected in all respects like other taxes upon real estate. A one hundred dollar (\$100) administrative fee shall be added to the special charge against the benefited property.
 - (b) Forfeiture. Any person who violates any provision of this chapter may be subject to a forfeiture of not less than one hundred dollars \$100 nor more than one thousand dollars (\$1,000).
- (4) Appeal. Appeal of the determination of the Chief of Police and/ or the Director of Building Inspection pursuant to either Subdivision 2(a), or the action of the City Comptroller imposing special charges pursuant to subsection 3(a) against the property, may be submitted to the Administrative Review Board as provided by Sec. 9.49 of these ordinances.
- (5) 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.
- (6) This section may be enforced by injunction. 7. 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.
- (8) 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."

