

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: September 12, 2007

MEMORANDUM

TO: Alderperson Tim Bruer

FROM: Jennifer Zilavy, Assistant City Attorney

RE: Chronic Nuisance Premises Ordinance Summary

The Chronic Nuisance Premises Ordinance (CNPO) has been in the works for close to two years. The ordinance has gone through several comprehensive re-drafts in response to concerns raised by alderpersons, citizens and various interested groups. The final draft is an ordinance that has been very carefully and thoroughly scrutinized by a fairly large and diverse group of individuals. The meetings at which this ordinance was considered were thought provoking, at times challenging, and always very productive. It was encouraging to have so many people engaged in the topic of nuisance activity and willing to work collectively to come up with a method that would help us address some very concerning quality of life issues that exist in several neighborhoods across the City--quality of life issues that are directly related to the landlord/tenant relationship. Issues that, if allowed to go on unabated, negatively affect the quality of life for entire neighborhoods in addition to individuals directly victimized by the nuisance activity.

As mentioned, the Madison Police Department and the Office Of The City Attorney met with many numerous individuals and groups throughout the past nearly two years. Those groups include (but are not limited to):

- The Madison Landlord Council
- The Apartment Association of South Central Wisconsin
- Dane County Domestic Violence Task Force
- Ridgeway Neighborhood Association
- Truax Neighborhood Association
- SaSNY - Schenk-Atwood Neighborhood Association
- Worthington Park Neighborhood Association
- Eken Park Neighborhood Association
- Residents of Hauk and Marquette Streets
- Tenant Rights of Wisconsin
- All East and North Aldermanic District Candidates
- Joining Forces For Families and Community Action in the Darbo Neighborhood
- East Isthmus Planning Commission
- Public Safety Review Board (two times)
- Equal Opportunities Commission Executive Committee
- Equal Opportunities Commission
- Madison Police Department Command Staff (at least two times)
- Madison Police Department Neighborhood Officers

Madison Police Department Budget Analyst
Department of Neighborhood Preservation and Inspection (f/k/a Building Inspection)
Madison Comptroller
Alders from several districts (including new alders) - as a group (two times)
Alder Thuy Pham-Remmele (individually)
Southwest Madison Neighborhood
Civil Rights Department - Equal Opportunities Division with Alder Brenda Konkel
Alder Brenda Konkel (individually)
Allied Drive Neighborhood Meeting with Landlords
Allied Drive Stakeholders
Alder Tim Bruer

Madison's CNPO is similar to the chronic nuisance ordinances currently on the books in Appleton, Wausau, Green Bay and Milwaukee. The Madison Police Department contacted Appleton, Wausau and Green Bay police departments to talk to them about their chronic nuisance ordinances and find out whether they have discovered any unintended issues and/or consequences with their ordinances. Thus far, those agencies have been pleased with the ordinance. The Madison Police Department also contacted Legal Aid of Green Bay and Legal Aid of Milwaukee to find out whether there were unintended consequences of the nuisance ordinances from their perspectives. These agencies reported they had not experience unintended consequences from application of the ordinance. Finally, the Madison Police Department contacted Domestic Victim Advocacy groups in Green Bay and Wausau to find out if the nuisance ordinances in their cities were negatively impacting and/or having unintended consequences for victims of domestic violence. The advocacy groups represented that they had not observed any issues relative to their clients and the nuisance ordinance.

The history of this proposed ordinance is important to show that this is not an ordinance that was hastily put together. It is an ordinance that has been carefully thought out and redrafted and redrafted and redrafted to respond to concerns of the various groups and individuals with whom we have met. References to the Fair Housing provisions of the Equal Opportunities Ordinance have been added, as well as language putting Premises owners on notice that this ordinance does not effect their duty to comply with existing Fair Housing laws, State Statutes, State Administrative Code Provisions and City Ordinances relating to landlord/tenant law.

The Madison Police Department, the Office Of The City Attorney and the Department of Neighborhood Preservation and Inspection have worked together for years to address nuisance activity. Premises that become chronic nuisance premises are generally premises with multiple building code issues and police issues. The Nuisance Activities enumerated in this ordinance represent the quality of life issues that are most frequently encountered on properties that are chronic nuisances. The ordinance codifies the process these three agencies have been using to address chronic nuisance activity and it provides the long absent and necessary "teeth" to gain cooperation and abatement from Premises owners.

The ordinance requires a Premises owner to abate Chronic Nuisance Activity occurring on, or in association with, their Premises. The ordinance is designed to hold Premises owners accountable for their properties. The ordinance does not actually require a Premises owner to do anything except: (1) Meet with the Police and/or Director of Neighborhood Preservation and Inspection; (2) Submit an acceptable abatement plan; (3) Attend landlord training; and (4) Abate the Nuisance Activity.

If a Premises owner is unresponsive to the City, he or she faces a consequence in the form of a monetary

penalty, possibly multiple monetary penalties. If the Premises owner fails to respond to the Police Department or the Department of Neighborhood Preservation and Inspection after receiving the Chronic Nuisance Premises Notice, they face a monetary penalty. If the Premises owner fails to attend landlord training, they face a monetary penalty. If the Premises owner continues to have Nuisance Activity occurring at his or her Premises after being declared a Chronic Nuisance Premises, he or she faces a monetary penalty *and* will be billed by the Comptroller for the cost of police services relative to enforcement action taken at their Premises for additional Nuisance Activities. Failure to pay the monetary penalties can result in jail time and additions to the Premises owner's tax bill.

An important component to this ordinance is the training. Enforcement by itself is not going to create long-term positive effects. Education is key to the success of this ordinance. Education not only as to what the ordinance is and what it is designed to achieve, but education of landlords and tenants as to their rights and responsibilities in their roles as landlords and tenants. The Office Of The City Attorney's Community Prosecutor is working on developing a landlord training that will be available on a monthly basis. Throughout the nearly two years spent working on this ordinance, it was discovered that many Cities offer landlord training on at least a monthly basis and that they have found it to be successful and beneficial to their Cities. The Community Prosecutor will also hold tenant meetings to educate tenants about the CNPO as well as their rights and responsibilities as tenants.

copy: Legistar