

**From the City of Springfield, IL Municipal Code**

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§ 98.06. - Chronic nuisances.

- (a) Any property within the City of Springfield which becomes a chronic nuisance Property is in violation of this chapter and is subject to its remedies. Any person in charge who permits property under his or her ownership or control to be a chronic nuisance property shall be in violation of this chapter and subject to its remedies.
- (b) Definitions:
- (1) Chronic nuisance property. Chronic nuisance property is property upon which either two or more of the following criminal activities have occurred during any 60-day period or three or more of the following criminal activities have occurred during any 365-day period, as a result of separate factual events that have been independently investigated by a law enforcement agency:
- a. Unlawful possession or consumption of alcohol by a minor, 235 ILCS 5/6-20;
  - b. Any homicide offense as defined in 720 ILCS 5/9-1 et seq.;
  - c. Any kidnapping offense as defined in 720 ILCS 5/10-1 et seq.;
  - d. Any sexual assault, sexual abuse or related offenses as defined in major sex offenses, 720 ILCS 5/11-1.10 et seq., vulnerable victim offenses, 720 ILCS 5/11-9.1 et seq., prostitution offenses, 720 ILCS 5/11-14 et seq., or pornography offenses, 720 ILCS 5/11-20 et seq.;
  - e. Assault or battery or any related offense as defined in 720 ILCS 5/12-1 et seq.;
  - f. Criminal housing management as defined in 720 ILCS 5/12-5.1 and 5.1a;
  - g. Possession of explosives or incendiary devices as defined in 720 ILCS 5/20-2;
  - h. Any offense involving damage and trespass to property as defined in 720 ILCS 5/21 et seq.;
  - i. Any offense involving deadly weapons as defined in 720 ILCS 5/24 et seq.;
  - j. Any offense involving disorderly conduct as defined in 720 ILCS 5/26-1 et seq.;
  - k. Any offense involving gambling as defined in 720 ILCS 5/28-1 et seq.;
  - l. Any offense involving the possession, manufacture or delivery of controlled substances in the Illinois Controlled Substances Act, 720 ILCS 570/401 et seq.;
  - m. Any offense involving the possession, cultivation, manufacture or delivery of cannabis as defined in the Cannabis Control Act, 720 ILCS 550/1 et seq.;
  - n. Sale, delivery or possession of drug paraphernalia, as defined in 720 ILCS 600/3 and 3.5;
  - o. Any offense involving the possession, manufacture, or delivery of methamphetamine as defined in the Methamphetamine Control and Community Protection Act, 720 ILCS 646/1 et seq.;
  - p. Any offense involving the use, sale or delivery of intoxicating compounds as defined in the Use of Intoxicating Compounds Act, 720 ILCS 690/.01 et seq.;
  - q. An order imposing a fine or other sanction for violation of any Code section in chapter 98, chapters 130 through 134, and chapters 170 through 173 of the 1988 City of Springfield Code of Ordinances, as amended, which order is issued by the code hearing officer pursuant to chapter 39 of the Code or by a court;

- r. A violation of article VII of chapter 170 of the 1988 City of Springfield Code of Ordinances, as amended, which violation is not remedied within the time allotted after service of a notice to abate as provided in chapter 170
  - (2) Control. The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on property.
  - (3) Owner. Any person, agent, firm or corporation having any legal or equitable interest in the property. Owner includes, but is not limited to a mortgagee in possession in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and the right to the present use and enjoyment of the premises; or an occupant who can control what occurs on the property.
  - (4) Permit. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent [assent] or agree to the doing of an act.
  - (5) Person. Any natural person, association, partnership or corporation capable of owning or using property in the City of Springfield.
  - (6) Person in charge. Any person in actual or constructive possession of a property, including but not limited to an owner, occupant of property under his or her domain, ownership or control.
  - (7) Property. Any real property, including land which is affixed, incidental or pertinent to the land, including but not limited to any premises, room, house, building, or structure or any separate part or portion thereof.
- (c) Commencement of action. When the chief of police receives a report documenting the occurrence of the second nuisance activity in a 60-day period or the third nuisance activity in a 365-day period at or within a property and determines that the property has become a chronic nuisance property, the chief of police shall:
- (1) Notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information: the street address or legal description sufficient for identification of the property; a statement that the chief of police has determined the property to be chronic nuisance property with a concise description of the nuisance activities leading to his/her findings; and a demand that the person in charge respond within ten days to the chief of police and propose a course of action that the chief of police agrees will abate the nuisance activities giving rise to the violation.
  - (2) Service shall be made either personally or by first class mail, postage pre-paid, return receipt requested, addressed to the person in charge at the address of the property believed to be a chronic nuisance property, or such other place which is likely to give the person in charge notice of the determination by the chief of police.
  - (3) A copy of the notice shall be served on the owner at such address as shown on the tax rolls of the county in which the property is located, and/or the occupant, at the address of the property, if these persons are different than the person in charge, and shall be made either personally or by first class mail, postage pre-paid.
  - (4) A copy of the notice shall also be posted at the property after ten days has elapsed from the service or mailing of the notice to the person in charge if the person in charge has not contacted the chief of police.
  - (5) The failure of any person to receive notice that the property may be a chronic nuisance property shall not invalidate or otherwise affect the proceedings under this chapter.
  - (6) After the notification, but prior to the commencement of legal proceedings by the city pursuant to this chapter, a person in charge stipulates with the chief of police that the person in charge will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the chief of police may agree to postpone legal proceedings for a period of not less than ten nor more than 30 days. If the agreed course of action does not result in the abatement of the nuisance activity or if no agreement concerning abatement is reached within 30 days, the

chief of police shall request authorization for the corporation counsel to commence a legal proceeding to abate the nuisance.

- (7) Concurrent with the notification procedures set forth herein, the chief of police shall send copies of the notice, as well as, any other documentation which supports legal proceedings to the corporation counsel.
  - (8) When a person in charge makes a response to the chief of police as required above, any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have or are occurring. This subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.
- (d) Abatement of nuisance. The corporation counsel of the City of Springfield, Illinois, may commence an action to abate a public nuisance as described above. Upon being satisfied by affidavits or other sworn evidence that an alleged public nuisance exists, the court may without notice or bond enter a temporary restraining order or a preliminary injunction to enjoin any defendant from maintaining such nuisance and may enter an order restraining any defendant from removing or interfering with all property used in connection with the public nuisance.
- (e) Burden of proof.
- (1) In an action seeking closure of a chronic nuisance property, the city shall have the initial burden of showing by a preponderance of the evidence that the property is a chronic nuisance property.
  - (2) It is a defense to an action seeking the closure of chronic nuisance property that the owner of the property at the time in question could not in the exercise of reasonable care or diligence, determine that the property had become a public nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the findings that the property is a chronic nuisance property.
  - (3) In establishing the amount of any civil penalty requested, the court may consider any of the following factors and shall state those found applicable:
    - a. The actions or lack of action taken by the person in charge to mitigate or correct the problem at the property;
    - b. Whether the problem at the property was repeated or continuous;
    - c. The magnitude or gravity of the problem;
    - d. The cooperation of the person in charge with the city; or
    - e. The cost of the city investigating and correcting or attempting to correct the condition.
- (f) Remedies.
- (1) In the event a court determines property to be a chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than 30 days, but not more than 180, or the court may employ any other remedy deemed by it to be appropriate to abate the nuisance.
  - (2) In addition to the remedy provided in subsection (1) above, the court may impose upon the owner of the property a civil penalty in the amount of up to \$100 per day, payable to the City of Springfield, for each day the owner had actual knowledge that the property was a public nuisance property and permitted the property to remain a chronic nuisance property.
  - (3) In determining what remedy or remedies shall employ, the court may consider evidence of other conduct which has occurred on the property, including, but not limited to:
    - a. The disturbance of neighbors.
    - b. The recurrence of loud and obnoxious noises.
- (g) Emergency closing procedures.

- (1) In the event that it is determined that the property is an immediate threat to the public safety and welfare, the city may apply to the court for such interim relief, as is deemed by the chief of police to be appropriate. In such an event, the notification provision set forth in subsection (c) above need not be complied with, however, the city shall make a diligent effort to notify the person in charge prior to a court hearing.
- (2) In the event that the court finds the property constitutes a chronic nuisance property as defined in this section, the court may order the remedy set out above. In addition, in the event that it also finds the person in charge had knowledge of activities or conditions of the property constituting or violating this chapter and permitted the activities to occur, the court may assess a civil fine as provided above.
- (3) The court may authorize the City of Springfield to physically secure the property against use or occupancy in the event the owner fails to do so within the time specified by the court. In the event that the city is authorized to secure the property, all reasonable costs incurred by the city to affect a closure shall be made and assessed as a lien against the property. If used herein, "costs" means these costs actually incurred by the city for the physical securing of the property, as well as, tenant relocation costs.
- (4) The City of Springfield Office of Public Health affecting the closure shall prepare a statement of cost and the City of Springfield shall thereafter submit said statement to the court for its review. If no objection of the statement is made within the period described by the court, a lien in said amount may be recorded against said property.
- (5) Any person who is assessed the cost of closure and/or civil penalty by the court shall be personally liable for the payment thereof by the city.
- (6) A tenant is entitled to their reasonable relocation costs, as those are determined by the court if, without actual notice, the tenant moved into the property, after either:
  - a. The owner or tenant received notice as described herein of the police chief's determination as described above; or
  - b. Unknown owner or other agent received notice of an action brought pursuant to this section.

(Ord. No. 123-03-00, § 1, 3-7-00; Ord. No. 218-4-01, § 1, 4-17-01; Ord. No. 585-10-03, § 1(Exh. 1), 10-21-03; Ord. No. 558-08-05, § 1, 8-2-05; Ord. No. 837-11-07, § 1, 11-20-07; Ord. No. 220-6-12, § 1, 6-19-12)

§ 98.999. - Penalty; lien.

- (a) Any person who shall violate any provisions of this chapter shall, on conviction thereof, be punished by a fine not to exceed \$500 for each violation. Each day during which a violation continues beyond the specified time for correction shall constitute a separate punishable offense.
- (b) If the city corrects the violation itself or causes the violation to be corrected on its behalf, a lien for the amount of time and expense involved in correcting the violation shall be imposed against the land where the violation occurred. A minimum charge of \$100 for each hour, or part of an hour, shall be imposed for any work done by the city, or on behalf of the city, in correcting a violation. This lien shall be recorded with the county recorder of deeds within 60 days after the work is done by the city or on behalf of the city, and suit to collect the cost of the lien shall be filed after the recording of the lien.
- (c) Where the city itself corrects the violation or causes the violation to be corrected on its behalf, the violator shall be subject to both subsections (a) and (b) of this section.

(Ord. No. 74-2-91, 2-6-91)