

**Springfield, IL Municipal Code - 98.06. - Chronic nuisances**

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Amended 10/18/2016

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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 that either:

(i) Within a 24-month period and as a result of no less than three separate inspections or incidents (multiple inspections or incidents which occur on the same calendar date shall not be considered separate inspections or incidents) has been the source of three or more violations of this Code.

For purposes of this 98.06(b)(1)(i) and 98.06(d), a "violation" shall mean a finding by an administrative hearing officer that a violation of the city's Code, which in turn serves as one of the violations described in 170.17.67(d) has occurred on or at the property in question.

(ii) 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; or
  - s. Where tenants or occupants of the property have committed any of the above-referenced criminal activities within 300 feet of the property resulting in making the area around the property unsafe or dangerous because of the activities of the tenants or occupants of the property.
  - t. Notwithstanding any other provision of this section, criminal activity occurring in a dwelling unit located on the property that is directly relating to domestic violence or sexual violence, engaged in by a tenant, member of a tenant's household, guest, or other party, and against a tenant, household member, guest, or other party shall not constitute a basis for establishing a chronic nuisance property under this section. "Domestic violence", "sexual violence", and "tenant" shall have the meanings as defined under Section 10 of the Safe Homes Act.
- (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 ascent [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 under 98.06(b)(1)(i); service; hearing. The owner(s) of a property designated a chronic nuisance property under 98.06(b)(1)(i) by the city shall be served with process in a manner reasonably calculated to give them actual notice, including, as appropriate, service by

first class mail, postage prepaid to the address shown by the records of Sangamon County as the person(s) or entity responsible for paying property taxes on the subject property, or personal service on the owner(s). The notice shall contain the date and location of an adjudicatory hearing to be held on the property's designation as a chronic nuisance property, the citation to the code section on which the designation was based, and the penalties for failure to appear. The hearing on the property's designation as a chronic nuisance property shall be limited to the issue of such designation and shall not include for consideration any other matter or alleged violation concerning the property or the owner(s). At the conclusion of the hearing, the administrative hearing officer shall make a determination, in writing, of whether the property is a chronic nuisance property as provided for in 98.06(b)(1)(i). The decision of the administrative hearing officer shall include findings supporting the final determination. The failure of any owner(s) to appear at the adjudicatory hearing shall not relieve the city of its burden to show sufficient evidence at the scheduled hearing that the property is a chronic nuisance property as defined in 98.06(b)(1)(i). Upon the final decision by the administrative hearing officer that the property is a chronic nuisance property, the property and its owner(s) shall be subject to the provisions of 98.06(d) herein.

- (d) Remedies under 98.06(b)(1)(i). Upon the final decision by an administrative hearing officer designating a property a chronic nuisance property, and absent a stay of such designation by a court of competent jurisdiction, the chronic nuisance property and its owner(s) shall be subject to the following:
- (1) The owner(s) of the chronic nuisance property shall be subject to a fine in the amount of \$1,000, payable to the city within 30 days of the administrative hearing officer's final determination. The fine assessed hereunder shall be considered a debt due and owing the city as of the date of the final determination.
  - (2) Within 30 days from the date the property has been determined by the administrative hearing officer to be a chronic nuisance property, the owner(s) shall have the chronic nuisance property inspected by a city inspector, whose inspection report(s) shall be submitted to the department of building and zoning within seven days of the date of the inspection. The owner(s) shall certify to the department of building and zoning, no later than 90 days from the date of the inspection provided for herein that all violations contained in the inspection report that resulted therefrom have been repaired, corrected, cured or mitigated.
  - (3) Within 30 days from the date that the property was determined by the administrative hearing officer to be a chronic nuisance property, the owner(s) of that property shall file with the department of building and zoning an annual registration statement for that property. Any such registration statement shall be prima facie proof of the statement therein contained in any administrative enforcement proceeding or court proceeding instituted by the city as to the chronic nuisance property. The registration statement shall contain the following information:
    - a. The name, street address, and telephone number of each owner of the property (a P.O. box is not sufficient). If the owner of the chronic nuisance property is a partnership, corporation, limited liability company ("LLC") or voluntary unincorporated association, the statement shall further include the name, street address, and telephone number of each partner (general and limited) in the case of a partnership, each officer in the case of a corporation, each manager in the case of a manager-managed LLC, or each member in the case of a member-managed LLC; and
    - b. The name, street address (a P.O. box is not sufficient) and telephone number of a natural person 21 years or older, designated by the owner(s) of the chronic nuisance property as the authorized agent for receiving notices of code violations or citations and receiving process in any court proceeding or administrative enforcement proceeding, on behalf of the owner(s) in connection with the enforcement of this Code; and
    - c. The name, street address and telephone number of the person or entity responsible for managing, controlling or collecting rents for the chronic nuisance property if someone or some entity other than the owner(s); and

- (4) The owner(s) of a chronic nuisance property shall, no earlier than 15 days before, nor any later than 15 days after the date which is one year after the final determination by the administrative hearing officer that the property is a chronic nuisance property, cause the chronic nuisance property to be inspected by a city inspector, whose inspection report(s) shall be submitted to the department of building and zoning within seven days of the date of said inspection. The owner(s) shall certify to the department of building and zoning, no later than 90 days from the date of the inspection provided for herein that all violations contained in the inspection report that resulted therefrom have been repaired, corrected, cured or mitigated.
  - (5) The owner(s) of a chronic nuisance property shall, no earlier than 15 days before, nor any later than 15 days after the date which is two years after the final determination by the administrative hearing officer that the property is a chronic nuisance property, cause the chronic nuisance property to be inspected by a city inspector, whose inspection report(s) shall be submitted to the department of building and zoning within seven days of the date of said inspection. The owner(s) shall certify to the department of building and zoning, no later than 90 days from the date of the inspection provided for herein that all violations contained in the inspection report that resulted therefrom have been repaired, corrected, cured or mitigated.
  - (6) Upon the administrative hearing officer's final determination that a property is a chronic nuisance property and until that designation is removed as provided for herein, the city shall be entitled to include the property (as identified by its address and/or parcel identification number) and the property's title owner on a list of chronic nuisance properties, maintained by the city and available to the public, such authorization shall mean to include publication of the list on a publicly-accessible website maintained by the city.
  - (7) If there shall be any violation, as defined in 98.06(b)(1), which shall arise on a property that has been designated a chronic nuisance property hereunder after said designation has been determined by an administrative hearing officer but prior to the removal of the designation as provided for herein and that is independent of any violation provided for in the inspection report(s) provided for herein, then the owner(s) of the chronic nuisance property shall have no more than 30 days from the date of said violation to remedy, repair, correct, or cure said violation.
  - (8) The failure of the owner(s) to comply with any of its or their obligations under this 98.06(d) shall cause the property to be re-designated a chronic nuisance property and each of the obligations set forth herein shall apply to the property as if the property were first designated a chronic nuisance property on the date on which the owner(s)' obligations hereunder were not completed or satisfied.
  - (9) The designation of a property as a chronic nuisance property shall be removed upon (i) the payment by the owner(s) of the fine provided for in 98.06(d)(1), (ii) the timely submission by the owner(s) of the inspection report(s) provided for in this 98.06(d) and timely submission of all certifications of repairs, and (iii) the timely submission of the registration statement provided for in 98.06(d)(3).
- (e) Commencement of action under 98.06(b)(1)(ii). 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 pursuant to 98.06(b)(1)(ii), 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.
- (f) Abatement of nuisance under 98.06(b)(1)(ii). The corporation counsel of the City of Springfield, Illinois, may commence an action to abate a public nuisance as described in 98.06(b)(1)(ii). 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.
- (g) Burden of proof under 98.06(b)(1)(ii).
- (1) In an action seeking closure of a chronic nuisance property pursuant to 98.06(b)(1)(ii), 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 pursuant to 98.06(b)(1)(ii) 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.
- (h) Remedies under 98.06(b)(1)(ii).
- (1) In the event a court determines property to be a chronic nuisance property pursuant to 98.06(b)(1)(ii), 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.
- (i) Emergency closing procedures under 98.06(b)(1)(ii).
- (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; Ord. No. 382-11-15, § 1, 11-17-15; Ord. No. 393-10-16, § 1(Exh. A), 10-18-16)