

RESOLUTION 16-1

**RESOLUTION AMENDING THE SANGAMON COUNTY CODE BY
THE ADDITION OF CHAPTER 15.08
CHRONIC NUISANCE PROPERTY**

WHEREAS, Sangamon County has the authority to adopt resolutions and to promulgate rules and regulations that protect the public health, safety and welfare of its citizens; and

WHEREAS, it has been several years since a resolution was passed to amend the structure of administrative rules; and

NOW THEREFORE BE IT RESOLVED by the members of the Sangamon County Board this 13th day of July, 2021, that Title 15 of the Sangamon County Code shall be amended by the addition of Chapter 15.08, which will read as follows:

Chapter 15.08 Chronic Nuisance Property.

15.08.010 Chronic Nuisance Property

- (a) Any property within unincorporated Sangamon County 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.;

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- 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. 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.
 - r. 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 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 unincorporated Sangamon County.
 - (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 Sheriff 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 Sheriff 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 Sheriff 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 Sheriff and propose a course of action that the Sheriff 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 Sheriff.
 - (3) A copy of the notice shall be served on the owner at such address as shown on the tax rolls of Sangamon County 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 sheriff.
 - (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 requirements have been satisfied and prior to the commencement of legal proceedings by the County pursuant to this chapter, if a person in charge agrees in writing that the person in charge will pursue a course of action the Sheriff agree will abate the nuisance activities giving rise to the notice of violation, the Sheriff may agree to postpone legal proceedings for a period of not less than ten nor more than 30 days after the person in charge and the Sheriff sign the agreement. If the agreed course of action does not result in the abatement of the nuisance activity in the time allowed by the agreement, or if no agreement concerning abatement is reached, the Sheriff may request that the State's Attorney's Office commence a legal proceeding to abate the nuisance.
 - (7) Concurrent with the notification procedures set forth herein, the Sheriff shall send copies of the notice, as well as, any other documentation which supports legal proceedings, to the State's Attorney's Office.
 - (8) When a person in charge makes a response to the Sheriff as allowed 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. In compliance with this chapter, the State's Attorney's Office may commence an action to abate the chronic nuisance property. 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 any property used in connection with the public nuisance.
- (e) Burden of proof.
- (1) In an action seeking closure of a chronic nuisance property, the County shall have the 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 County; and
 - e. The cost to the County 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 days, 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 County for each day the owner had actual knowledge that the property was a chronic nuisance property and permitted the property to remain a chronic nuisance property.
 - (3) In determining what remedy or remedies to 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) Additional Remedies
- (1) The court may authorize the County 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 County is authorized to secure the property, all reasonable costs incurred by the County 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 County for the physical securing of the property, as well as, tenant relocation costs.
 - (2) The County's Office of Public Health affecting the closure shall prepare a statement of costs, and the County shall thereafter submit said statement to the court for its review. If no objection of the statement is made within the period directed by the court, a lien in said amount may be recorded against said property.
 - (3) Any person who is assessed the costs of closure and/or civil penalty by the court shall be personally liable for the payment thereof to the County.
 - (4) A tenant is entitled to the payment of their reasonable relocation costs by the owner of the property, as those are determined by the court, if, without actual notice, the tenant moved into the property after either:
 - a. The owner received notice as described herein of the Sheriff's determination as described above; or
 - b. The owner or the owner's agent received notice of a lawsuit brought pursuant to this section.

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(h) Lien

A lien for the penalties, costs, and expenses the court awards to the County shall be imposed against the property where the violation occurred. This lien shall be recorded with the county recorder of deeds

Approved by the _____ Courts _____ Committee ____ July 1, 2021

approved e, Chairman
Courts 7/1/21

Chairman, Sangamon County Board

ATTEST:

County Clerk

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Andy Goleman
SANGAMON COUNTY AUDITOR