

ORDINANCE NO. 0-09-03

**ORDINANCE AMENDING CHAPTER 12 OF THE VILLAGE
OF ADDISON CODE BY ADDING A NEW ARTICLE VI
THERE TO (CHRONIC NUISANCE PROPERTY ABATEMENT)**

WHEREAS, Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois provides that any municipality which has a population of more than 25,000 is a home rule unit, and the Village of Addison, DuPage County, Illinois, with a population in excess of 25,000 is, therefore, a home rule unit and, pursuant to the provisions of said Section 6(a) of Article VII, may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt; and

WHEREAS, the Mayor and Board of Trustees believe and hereby declare that it is in the best interests of the Village and its residents to provide for the abatement of chronic nuisance properties by enacting a new Chapter 12, Article VI, as set forth hereinafter;

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF TRUSTEES OF THE VILLAGE OF ADDISON, DUPAGE COUNTY, ILLINOIS, IN THE EXERCISE OF ITS HOME RULE POWERS, AS FOLLOWS:

SECTION ONE: The recitals set forth hereinabove are hereby adopted as findings of fact as if said recitals were fully set forth within this Section One.

SECTION TWO: Chapter 12 of the Addison Village Code shall be and is hereby amended to add a new Article VI thereto, which new Article VI shall hereafter be and read as follows:

Article VI. Chronic Nuisance Property Abatement

Sec. 12-34. Violation.

- (A) It shall be unlawful for any property within the Village to become or remain a chronic nuisance property in violation of this Article.

- (B) It shall be unlawful for any person or person in charge to:
- (1) Suffer or permit a property to become a chronic nuisance property; and
 - (2) Allow a property to continue as a chronic nuisance property.
- (C) Each day on which a violation of this Article continues shall be considered a separate and distinct offense.

Sec. 12-35. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Chief of Police means the Chief of Police of the Village of Addison or his designee.

Chronic nuisance property means property upon which three or more nuisance activities have occurred within a 12-month period as a result of any three separate factual events that have been independently investigated by any law enforcement agency.

Control means the ability to regulate, restrain, dominate, counteract, or govern conduct that occurs on that property.

Nuisance activities means any of the following activities, behaviors, or conduct, as defined by federal, state, or Village ordinance:

- (1) Disorderly conduct as defined in 720 ILCS 5/26-1.
- (2) Unlawful use of weapons as defined in 720 ILCS 5/24-1 *et seq.*
- (3) Mob action as defined in 720 ILCS 5/25-1.
- (4) Discharge of a firearm as defined in 720 ILCS 5/24-1.2 and 1.5.
- (5) Gambling as defined by 720 ILCS 5/28-1.
- (6) Possession, manufacture, or delivery of controlled substances as defined by 720 ILCS 570/401 *et seq.*
- (7) Public indecency as defined by 720 ILCS 5/11-9.
- (8) Assault or battery or any related offense as defined in 720 ILCS 5/12-1 *et seq.*
- (9) Sexual abuse or related offense as defined in 720 ILCS 5/12-15 *et seq.*

- (10) Prostitution as defined in 720 ILCS 5/11-14 *et seq.*
- (11) Criminal damage to property as defined in 720 ILCS 5/21-1 *et seq.*
- (12) Possession, cultivation, manufacture, or delivery of cannabis as defined in 720 ILCS 550/1 *et seq.*
- (13) Illegal consumption or possession of alcohol as defined in 235 ILCS 5/1 *et seq.*
- (14) Criminal housing management as defined in 720 ILCS 5/12-5.1.
- (15) Structure unfit for human occupancy as defined in the Village's Property Maintenance Code.
- (16) Unsafe structure as defined in the Village's Property Maintenance Code.
- (17) Unlawful structure as defined in the Village's Property Maintenance Code.
- (18) Multiple and serious violations of the Village's Property Maintenance Code continuing after disposition of a housing court complaint for those violations.
- (19) Activity that constitutes a violation of a felony or Class A misdemeanor pursuant to a federal or Illinois statute.

Owner means any person, partnership, land trust, or corporation having any legal or equitable interest in the property. Owner includes, but is not limited to:

- (1) A mortgagee in possession in who is vested:
 - (a) All or part of the legal title to the property.
 - (b) All or part of the beneficial ownership and the rights to the present use and enjoyment of the premises.
- (2) An occupant who can control what occurs on the property.
- (3) Any person acting as an agent of an owner as defined herein.

Permit means-to suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

Person means any natural person, association, partnership, corporation, or other entity capable of owning, occupying, or using property in the Village.

Person in charge means any person in actual or constructive possession of a property, including but not limited to, an owner, occupant of property under his or her ownership or control.

Property means any real property, including land and that which is affixed, incidental, or pertinent to land, including but not limited to, any premises, room, house, building, or structure, or any separate part or portion thereof, whether permitted or not.

Sec. 12-36. Procedure.

When the Chief of Police of the Village receives one or more police reports documenting the occurrence of a nuisance activity on or within a property, the Chief of Police shall independently review such reports to determine whether they describe nuisance activities.

Upon such findings, the Chief may:

- (A) Notify the person in charge in writing that the property is in danger of becoming a chronic nuisance property. The notice shall contain the following information:
 - (1) The street address or legal description sufficient for identification of the property.
 - (2) A statement that the Addison Police Department has information that the property may be a chronic nuisance property, with a concise description of the nuisance activities that may exist or that have occurred.
 - (3) Service shall be made either personally or by first class mail, postage prepaid, 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.
 - (4) A copy of the notice shall be served on the taxpayer of record at such address as shown on the tax rolls of the county and/or the occupant, at the address of the property, if these persons are different from the person in charge, and shall be made either personally or by first class mail, postage prepaid.
 - (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 Article.
- (B) Should the person in charge fail to prevent the property from becoming a chronic nuisance property, the Chief of Police or his designee may commence proceedings to abate the nuisance conditions. The Village shall have the right, in its sole discretion, to pursue nuisance abatement proceedings either in the Circuit Court of DuPage County, or through administrative adjudication of building and housing violations (as provided in Article III of Chapter 30 of this Municipal Code).

Sec. 12-37. Judicial Remedies.

- (A) In the event the Village pursues a judicial abatement remedy and in the event that a court determines a 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 appropriate to abate the nuisance.
- (B) In addition to the remedy provided in Subsection (A) above, the violator shall be subject to a fine of not less than \$750.00 nor more than \$1,000 per day, payable to the Village of Addison, for each day the owner or his agent had actual knowledge that the property was a public nuisance property and permitted the property to remain a public nuisance property.
- (C) In determining what remedy or remedies to employ, the court may consider evidence of other conduct that has occurred on the property, including, but not limited to:
 - (1) The disturbance of neighbors.
 - (2) The occurrence of other nuisances on or from the property.
 - (3) The property's general reputation and/or the reputation of persons in or frequenting the property.
- (D) The court may authorize the Village 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 Village is authorized to secure the property, all costs reasonably incurred by the Village to affect the closure shall be made and assessed as a lien against the property and debt to the Village. As used herein, "costs" mean those costs actually incurred by the village for the physical securing of the property.
- (E) The Village Building Department employee effecting the closure shall prepare a statement of costs, and the Village shall thereafter submit said statement to the court for its review. If no objection to the statement is made within the period described by the court, a lien in said amount may be recorded against said property.
- (F) Any person who is assessed the cost of closure and/or civil penalty by the court shall be personally liable for the payment thereof to the Village.

SECTION THREE: Section 30-302 of Chapter 30, Article 3 of the Addison Village Code shall be and is hereby amended in its entirety so that said Section 30-302 shall hereafter be and read as follows:

Sec. 30-302. Definitions.

For the purposes of this Article, the following words or phrases shall have the meanings respectively ascribed to them by this Section:

Code means any Village ordinance, law, housing, building code or other ordinance that establishes construction, plumbing, heating, electrical, fire prevention, sanitation or other health and safety standards that are applicable to structures within the Village, including without limitation Chapters 6, 9, 12 and 24 of the Addison Village Code.

Building inspector means a Village employee whose duties include the inspection or examination of structures or property in the Village to determine if Code violations exist.

Building owner means the legal or beneficial owner of a structure.

SECTION FOUR: Those portions of Chapters 12 and 30 of the Village Code which have not been expressly amended herein shall be and are hereby ratified and affirmed and shall remain in full force and effect.

SECTION FIVE: Any policy, ordinance or resolution, or part thereof that conflicts with the provisions of this Ordinance is hereby expressly repealed to the extent of such conflict.

SECTION SIX: This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

PASSED THIS 2nd day of February, 2009.

AYES: Trustee Hundley, Layne, Lynch, McDermott, Theodore, Veenstra

NAYS: None

ABSENT: None

APPROVED THIS 2nd day of February, 2009

ATTEST:
Lucille A. Guachero
Village Clerk

James Anthony
Mayor

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