

Ordinance No. 13-60

**AN ORDINANCE AMENDING CHAPTER 18 "BUILDING
AND BUILDING REGULATIONS" AND CHAPTER 39
"ENVIRONMENT" OF THE CODE OF ORDINANCES**

WHEREAS, the repeated commission of criminal offenses and violations of the City's Municipal Code substantially annoys and injures the health, comfort, repose and safety of the public; and

WHEREAS, the failure of owners or managers of certain real property to control the activity occurring on their property causes repeated and substantial expenditures of public funds in order to enforce state, federal and city laws upon or near their property. Among the property management practices that contribute to the existence of activities which disturb neighborhoods are the failure of owners or managers of real property to require tenants to obey laws as a condition of leases, the failure to enforce existing provisions of leases, the failure of owners or managers to respond to or take affirmative steps to address complaints by adjoining owners, and the overall tolerance by owners or managers of criminal activity on property by tenants or their guests, all of which substantially annoys and injures the health, comfort, repose and safety of the public; and

WHEREAS, the decline in or depression of surrounding property values and the expenditures of public funds results in part from the fact that certain property owners or managers fail to adequately manage and control their property; and

WHEREAS, the provisions of this article will assist the City in the long term to renew certain neighborhoods by lessening the expenditures of public funds, increasing property values, preserving the tranquility of neighborhoods, and deterring property owners and managers from adopting inadequate management practices.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Rolling Meadows, Illinois, as follows:

SECTION ONE: Chapter 18, "Building and Building Regulations" is hereby amended by adding thereto, the following:

Sec. 18-426 Crime Free Housing.

- (a) Any owner or the agent of the owner, of property, which property is being rented out as a rental residential dwelling unit shall attend and complete a City of Rolling Meadows Crime Free Multi-Housing Program Seminar ("Seminar"). The owner or agent of a new rental unit shall attend the Seminar prior to obtaining or being issued a new City rental residential license. Any current rental dwelling license holders shall have until the expiration date of the current rental residential license to attend the Seminar.
- (b) A property manager shall be considered an agent of the owner. If a new property manager is hired, notification of the change will be made to the code official within seven (7) days of the change and the new property manager shall have three (3) months after hiring to attend the City of Rolling Meadow's Seminar.
- (c) Any owner or agent shall attend a Crime Free Multi-Housing Program 4-hour Seminar and be compliant with this chapter prior to the expiration of a license for that particular year.
- (d) The crime free multi-housing coordinator, as designated by the Chief of Police, shall provide the City Clerk's office and Community Development with a list of owners or agents who have attended the Seminar, with verification that the owner or agent has complied with this section and is eligible to obtain, maintain or renew rental dwelling license.
- (e) Any owner or agent of residential rental property shall utilize a crime free lease addendum or have a clause in the lease similar to a crime free lease addendum for any leases executed. A copy of the crime free lease addendum shall be provided to the crime free multi-housing coordinator prior to expiration of the rental permit for renewals and within sixty (60) days of initial application for new applications at the Seminar. The crime free multi-housing coordinator shall provide, at no cost, samples of the crime free lease addendum and shall review any clauses within actual leases with the City's legal department to determine if the clause is similar to the crime free lease addendum. The clause is to make criminal activity (not limited to violent criminal activity or drug related criminal activity engaged by, facilitated by or permitted by the renter, member of the household, guest or other party under the control of the renter) a lease violation. The landlord shall have authority under that clause to initiate an eviction proceeding as specified in the Illinois Compiled Statutes Forcible Entry and Detainer statutes. Proof of a criminal activity in the Forcible Entry and Detainer proceedings shall be by a preponderance of the evidence.

- (f) Nuisance residential rental property. It is hereby declared a chronic nuisance for any property owner, agent, or manager to allow or permit nuisance activities as defined under Chapter 38, Division 1.1, Chronic Nuisance Property Abatement. The owner, agent, or manager shall be subject to all the applicable provisions and penalties of Chapter 38, Division 1.1.
- (g) The City may seek to enforce this section by seeking any and all remedies under this chapter, including the imposition of fines. In addition, the City Manager may suspend and/or recommend revocation of any license issued hereunder if it appears to his/her satisfaction from the report of any City officer or City employee or any other available information that the licensee is violating this chapter and/or is in violation of the provisions set forth in the Chronic Nuisance Property Abatement Ordinance, Chapter 38, Division 1.1. Any suspension or revocation of a license shall be pursuant to the hearing provisions set forth in Chapter 22.

Sec. 18-427 Chapter Does Not Affect Leases.

Except as provided in the section above, this chapter is not intended to and does not affect the rights and obligations of the parties to a lease, oral or written, of a rental residential property.

Sec. 18-428 Severability.

If any provision or part thereof of this chapter is declared by a court of competent jurisdiction to be invalid and of no further force and effect, such invalidity shall not affect the remaining provision of this chapter, which shall remain in full force and effect.

Sec. 18-429 Penalty.

- (a) Any owner, property agent, occupant or person who fails to comply with any section of this chapter applicable to him, and continues in this failure after due notice and opportunity to comply with this chapter, upon conviction thereof, shall be subject to a fine of not less than \$100.00 nor more than \$1,000.00 for each day each section of this Code is violated.
- (b) Nothing in this chapter shall prevent the City from taking any other legal or equitable remedies available to the City, including any emergency action permitted by law when any portion of the rental residential building is a danger to persons or property is a nuisance or a nuisance residential rental property.

SECTION TWO: Chapter 38, "Environment" is hereby amended by adding thereto, the following:

DIVISION 1.1 CHRONIC NUISANCE PROPERTY ABATEMENT.

Sec. 38-50 Violation.

- (a) It shall be unlawful for any property within the City to become or remain a chronic nuisance property in violation of this division.
- (b) It shall be unlawful for any person or person in charge to:
 - (1) Encourage or permit a property to become a chronic nuisance property; or
 - (2) Allow a property to continue as a chronic nuisance property.
- (c) Each day that a violation of this article continues shall be considered a separate and distinct offense.

Sec. 38-51 Definitions.

The following words, terms and phrases, when used in this division, 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 City of Rolling Meadows or his designee.

Chronic nuisance property means property upon which nuisance activities have occurred as a result of factual events that have been independently investigated by any law enforcement agency or department of the City within either of the following time periods:

- (a) Two (2) or more separate factual nuisance activities within a sixty (60) day time period;
- (b) Three (3) or more separate factual nuisance activities within a one hundred twenty (120) day time period;
- (c) Four (4) or more separate factual nuisance activities within a one hundred eighty (180) day time period; or
- (d) Five (5) or more separate factual nuisance activities within a three hundred sixty (360) day time period.

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 City 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 ICLS 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 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 defined in 720 ILCS 5/12-5.1.
- (15) Structure unfit for human occupancy as defined in the City's property maintenance code.
- (16) Unsafe structure as defined in the City's property maintenance code.
- (17) Unlawful structure as defined in the City's property maintenance code.
- (18) Multiple and serious violations of the City's property maintenance code continuing after disposition of a housing court complaint or City code hearing unit adjudication for those violations.
- (19) Activity that constitutes a violation of a felony or class A misdemeanor pursuant to a federal or Illinois statute.
- (20) A violation of noise abatement, Chapter 70, Section 70-37 or 70-39.
- (21) A light trespass in violation of Chapter 38, Section 38-34.

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 City.

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. 38-52 Procedure.

When the Chief of Police receives one or more reports documenting the occurrence of a nuisance activity on or within a property, the Chief of Police or his designee shall independently review such reports to find whether they describe nuisance activities. Upon such findings, the Chief may:

Notify the person in charge or the owner/occupant 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 Rolling Meadows Police Department has information that the property may be 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 section.

Sec. 38-53 Abatement – Administrative Hearing.

- (a) At hearing before the administrative hearing officer, the City shall have the initial burden of proof to show, by a preponderance of evidence, that the property is a chronic nuisance property.
- (b) The City's representative shall present evidence in support of its claim that the property is a chronic nuisance property. The owner/occupant, person in charge or the person in charge's local representative shall be permitted to rebut such evidence and present any other relevant and reliable evidence.

No continuances shall be authorized by the hearing officer in proceedings under this section except in cases where a continuance is absolutely necessary to protect the rights of the owner. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a hearing officer under this section shall not exceed 25 days.

At any time prior to the hearing date, the hearing officer may, at the request of either party, direct witnesses to appear and give testimony at the hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence including police reports shall be admissible only if it is the type commonly relied upon by reasonable, prudent persons in the conduct of their affairs.

- (c) At the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented at the hearing, whether or not a violation exists. The determination shall be in writing and shall be designated as the finding, decisions, and order. The hearing officer's decision shall be final and binding, except that the provisions of the Administrative Review Act shall apply. The findings, decision, and order shall include the hearing officer's findings of fact, a decision whether or not a violation exists based upon the findings of fact, and sanctioning the person in charge/owner/occupant, as specified in Subsection (e) below, or dismissing the case in the event a violation is not proved. If the hearing officer finds that a nuisance has not been abated, the hearing officer shall include, as part of the order, that the nuisance be abated within a time certain. A copy of the finding, decision, and order shall be served upon the person in charge, or owner/occupant if different than the person in charge, within ten (10) business days with the same manner of service as provided in Section 38-52.
- (d) In the event that the order provides for the abatement of nuisance activity, the hearing officer shall establish a status date, which would be after the date established for the abatement of the nuisance activity, in order to determine whether there has been compliance with the order. At such time, the hearing officer shall hear testimony and accept any evidence relevant to the compliance with the order and continued abatement of the nuisance activity. In the event the hearing officer finds that the nuisance has not been abated, the hearing officer may impose sanctions on the person in charge/owner/occupant as set forth in Paragraph (e) and set further status dates for hearing on compliance. At any further status dates, if the hearing officer determines, after a status hearing in compliance with this section, that the nuisance has not been abated, further sanctions may be imposed on the person in charge/owner/or occupant, as set forth in Paragraph (e) below.
- (e) If the hearing officer makes a finding that a property was, or is, a chronic nuisance property, he may fine the person in charge and/or the owner/occupant of the property if those persons are different than the person in charge not less than \$100.00 or more than \$1,000.00 for each violation of this section. Each day a nuisance activity occurs or continues shall be considered a separate and distinct violation. The hearing officer may, at their discretion, impose such a fine for each day the nuisance activity goes unabated.

Sec. 38-54 Same – Court.

- (a) *Abatement of nuisance.* The City, as an alternative to Section 38-53, may commence an action to abate a chronic nuisance property as described above. Upon being satisfied by affidavits or other sworn evidence that an alleged chronic nuisance property exists, the court may, without notice or bond, enter a temporary restraining order or a preliminary injunction to enjoin any defendant from maintaining such

(b) *Commencement of action, 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 a 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 chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence control the conduct leading to the finding 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 if they are found appropriate, and shall cite 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.
 - e. The cost of the City investigating and correcting or attempting to correct the condition.

(c) *Remedy.*

- (1) In the event 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 thirty (30) days, but not more than 180 days or the court may employ any other remedy deemed by its appropriate to abate the nuisance.
- (2) In addition to the remedy provided in Paragraph (1) above, the court may impose upon the owner of the property a civil penalty in the amount of not less than \$100.00 or more than \$1,000.00 per day payable to the City of Rolling Meadows, for each day the owner had actual knowledge that the property was a public nuisance property and permitted the property to remain a public 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 occurrence of other nuisances on or from the property.
 - c. The property's general reputation and/or the reputation of persons in or frequenting the property.
- (4) The court may authorize the City 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 costs reasonably incurred by the City to affect the closure shall be made and assessed as

- (5) The City Department affecting the closure shall prepare a statement of costs, and the City 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.
- (6) 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 City.

SECTION THREE: This Ordinance shall be in full force and effect from and after its passage and approval as required by law.

SECTION FOUR: This Ordinance shall be printed and published in pamphlet form by order of the City Council of the City of Rolling Meadows, Illinois.

YEAS: Cannon, Prejna, Majikes, Judd, Banger, D'Astice, Larsen

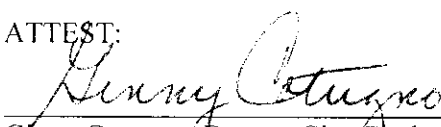
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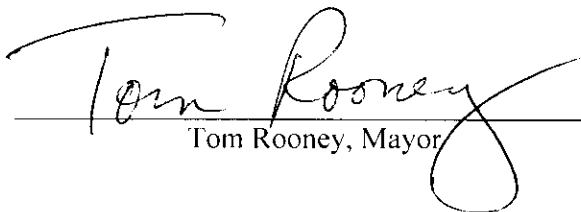
ABSENT: 0

Passed this 3rd day of December 2013.

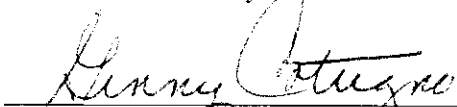
Approved this 3rd day of December 2013.

ATTEST:


Ginny Cotugno, Deputy City Clerk


Tom Rooney, Mayor

Published this 4th day of December 2013.


Ginny Cotugno, Deputy City Clerk