

ORDINANCE NO. 1607

AN ORDINANCE AMENDING TITLE 9, "PUBLIC PEACE, MORALS AND WELFARE" OF THE CREST HILL MUNICIPAL CODE, ADDING CHAPTER 9.44 ENTITLED "NUISANCE ABATEMENT"

WHEREAS, Section 11-60-2 of the Illinois Municipal Code (65 ILCS 5/1-1-1 *et seq.*) provides that the corporate authorities of each municipality may define, prevent and abate nuisances; and

WHEREAS, the Mayor and City Council of the City of Crest Hill ("City") find it to be in the best interests of the City to regulate chronic nuisance properties.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Crest Hill, Will County, Illinois, as follows:

SECTION 1: That Title 9, "Public Peace, Morals and Welfare" of the Crest Hill Municipal Code be and is hereby amended by adding a new Chapter 9.44, entitled "Nuisance Abatement," as follows:

"Chapter 9.44"

NUISANCE ABATEMENT

- 9.44.010 – Definitions
- 9.44.020 – Abatement of Chronic Nuisance Properties
- 9.44.030 – Abatement of Nuisance
- 9.44.040 – Procedure
- 9.44.050 – Remedy
- 9.44.060 – Appeal
- 9.44.070 – Determination of Abatement

9.44.010 Definitions:

For purposes of this Chapter, the following definitions shall apply:

CHRONIC NUISANCE PROPERTY shall mean property upon which two (2) or more nuisance activities have occurred during any 180-day period, as a result of any two (2) separate factual events that have been independently investigated by any law enforcement agency or the Building Department, when said investigations resulted in Enforcement Action for nuisance activities.

ENFORCEMENT ACTION shall include any of the following actions taken against any person associated with the property while at or within three hundred (300) feet of the property:

1. Arrest of an individual.
2. Issuance of a citation.
3. The filing by the City of a civil or criminal complaint.
4. The Responding Officer or Building Department official has made a factual finding that the Nuisance Activity has occurred despite the fact that a witness does not want to sign a complaint and/or no citation is issued.

NUISANCE ACTIVITIES shall include the following activities:

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 in 720 ILCS 5/28-1.
6. Possession, Manufacture or Delivery of Controlled Substances as defined in 720 ILCS 570/40, et seq.
7. Assault or Battery or Any Related Offense as defined in 720 ILCS 5/12-1, et seq.
8. Sexual Abuse or Related Offenses as defined in 720 ILCS 5/12-15, et seq.
9. Public Indecency as defined in 720 ILCS 5/11-9, 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. Violation of any City of Crest Hill ordinance or State of Illinois statute controlling or regulating the sale or use of alcoholic beverages.
15. Violation of the City of Crest Hill Housing Code Chapter 15, or any successor code section, relative to rubbish and garbage.
16. Violation of the City of Crest Hill Code Chapter 7.08 relative to plants and weeds.

CONTROL shall mean the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.

OWNER shall mean any person, agent, firm 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 or (b) all or part of the beneficial ownership and the right to the present use and enjoyment of the premises; or (2) an occupant who can control what occurs on the property.

PERMIT shall mean to suffer, allow, consent to, acquiesce by failure to prevent, or expressly ascent or agree to the doing of an act.

PERSON shall mean any natural person, association, partnership or corporation capable of owning or using property in the City of Crest Hill.

PERSON ASSOCIATED WITH shall mean any person who, on the occasion of a Nuisance Activity, has entered, patronized, visited or attempted to enter, patronize or visit or waited to enter, patronize or visit a property or person present on a property.

PERSON IN CHARGE shall mean any person in actual or constructive possession of a property including but not limited to an owner, occupant or lessee of property.

PROPERTY shall mean any real property, including land in 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.

9.44.020 Abatement of Chronic Nuisance Properties:

- A. Any certain property within the City of Crest Hill that becomes a Chronic Nuisance Property is in violation of this chapter and is subject to its remedies.
- B. Any Person in Charge who permits property under his or her ownership or control to be a public nuisance property shall be in violation of this chapter and subject to its remedies.

9.44.030 Abatement of Nuisance:

The City of Crest Hill may commence an action through any available procedures including but not limited to Administrative citations, to abate public nuisance as described above.

9.44.040 Procedure:

When two or more nuisance activities resulting in an Enforcement Action occur on or within a property, the Chief of Police or his designee, or the Building Commissioner or his designee, shall declare the property a chronic nuisance property and take the following action:

- A. Notify all Persons in Charge in writing that the property has been determined to be a Chronic Nuisance Property. The notice shall contain the following information:
 - 1. The street address or a legal description sufficient for identification of the property.

2. A statement that the Chief of Police and/or Building Commissioner 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. The Chief of Police shall offer the person in charge an opportunity to propose a course of action that the Chief of Police agrees will abate the nuisance activities giving rise to the violation. The proposal shall be acceptable if it can reasonably be expected to result in abatement of the nuisance activities described in the notice within sixty (60) days.
 3. A statement that the owner shall, within ten (10) days of receipt of the notice, respond to the Chief of Police with an appeal pursuant to Section 9.44.060 or a written nuisance abatement proposal.
 4. A statement that failure to complete an approved course of action may result in the cost of future enforcement being assessed against the property.
 5. A statement that the property owner may be subject to a fine for permitting a Chronic Nuisance Property.
 6. A statement that any property owner who has been notified by the Chief of Police that their non-owner occupied property is a chronic nuisance property must attend the City of Crest Hill landlord training program or an alternate landlord training program as approved by the Chief of Police or his designee. The fee for any landlord training program administered by the City of Crest Hill shall be fifty dollars (\$50.00) and shall be paid by the property owner prior to attending the training. Failure to attend an approved landlord training within six (6) months shall result in a fine of two hundred fifty dollars (\$250.00).
- B. Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to all Persons 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.
- C. A copy of the notice shall be served on the owner at such address as shown on the tax records 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 prepaid.
- D. A copy of the notice shall also be posted at the property after then (10) days has elapsed from the service or mailing of the notice to the Person in Charge, and the Person in Charge has not contacted the Chief of Police.
- E. 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.
- F. If 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 (10) nor more than thirty (60) days, except in

the case of a Nuisance Activity where a search warrant was executed at the property. 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 thirty (60) days, the Chief of Police may commence a legal proceeding to abate the nuisance.

- G. Concurrent with the notification procedures set forth herein, the Chief of Police shall maintain copies of the notice, as well as any other documentation, which supports legal proceedings.
- H. The Chief of Police shall have the authority to delegate procedural responsibilities to enforce this ordinance to another member of the Police Department, while maintaining oversight of the process.

9.44.050 Remedies:

- A. The owner of a Chronic Nuisance Property may be liable for the cost of each Enforcement Action for a Nuisance Activity that occurs after notice is delivered as provided in Section 9.44.040. The Chief of Police or his designee or the Building Commissioner or his designee shall calculate the cost of each Enforcement Action and report such cost to City Treasurer, or his designee, who shall bill the owner by invoice delivered as provided in Section 9.44.040. The invoice shall contain:
 - 1. The street address or legal description sufficient for identification of the property.
 - 2. A concise description of the Nuisance Activity and the cost of the resulting action.
 - 3. A statement that the invoice must be paid in full within thirty (30) days of the date on the invoice and the any unpaid amounts shall be a lien on the property.
- B. In addition to the remedy in 9.44.050(A), a fine of seven hundred fifty dollars (\$750.00) may be assessed for each Enforcement Action for a Nuisance Activity that occurs after notice is delivered as provided in Section 9.44.040.
- C. This chapter may be enforced by injunction.

9.44.060 Appeal:

Appeal of the notice delivered by the Chief of Police pursuant to Section 9.44.040 or the invoice delivered by City Treasurer pursuant to Section 9.44.050 must be submitted in writing to the Chief of Police within ten (10) days of receipt of the notice or invoice.

9.44.70 Determination of Abatement:

The public nuisance created by a chronic nuisance property shall be deemed abated when no enforcement action for a nuisance activity occurs for a period of six (6) consecutive months from the date stated on the notice declaring the property to be a chronic nuisance property. Upon abatement, the property shall not be classified as a chronic nuisance property until a new notice is delivered as provided in Section 9.44.040.

Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State.

SECTION 2: Severability. If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any other provision of this Ordinance.

SECTION 3: Repealer. All ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this Ordinance, are to the extent of such conflict hereby repealed.

SECTION 4: Effective Date. This Ordinance shall take effect upon its passage and publication according to law. The City Clerk is directed to publish this Ordinance in a newspaper of general circulation in Will County.

PASSED THIS 4th DAY OF SEPTEMBER, 2012.

AYES: Gazal, Dyle, Vershay, Lelis, Oberlin, Sternisha, Convey and Inman

NAYS: None

ABSENT: None


CHRISTINE VERSHAY-HALL, CITY CLERK

APPROVED THIS 4th DAY OF SEPTEMBER, 2012.


RAYMOND R. SOLIMAN, MAYOR

ATTEST:


CHRISTINE VERSHAY-HALL, CITY CLERK