

12.0? CHRONIC NUISANCE PROPERTY ABATEMENT

It shall be unlawful for any property within the City to become or remain a chronic nuisance property in violation of this Section. 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.

Each day that a violation of this Section continues shall be considered a separate and distinct offense.

Definitions

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

CITY MANAGER - the City Manager of the City of DeKalb or his designee.

CHRONIC NUISANCE PROPERTY - property upon which three (3) or more nuisance activities within a twelve (12) month period have occurred as a result of any three (3) separate factual events that have been independently investigated by any law enforcement agency or the City of DeKalb.

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

NUISANCE ACTIVITIES - any of the following activities, behaviors, or conduct, as defined by federal or state statute, or City ordinance.

1. Disorderly conduct as defined in 720 ILCS 5/26-1 or City Municipal Code §52.02;
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 or City Municipal Code §52.28;
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. or City Municipal Code §§52.40 and 52.50;
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. or City Municipal Code §52.60;

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. or City Municipal Code §38.21f;
14. Criminal housing management as defined in 720 ILCS 5/12-5.1;
15. Violations of City alcohol ordinances as defined in City Municipal Code Chapter 38;
16. Disorderly house as defined in City Municipal Code §52.06;
17. Violations of noise ordinances as defined in City Municipal Code §§ 52.35 and 52.36; and
18. Multiple (four [4] or more) and serious; i.e. dangerous to the life, health, or safety of the public or the occupants of the structure; violations of City ordinances set forth in Municipal Code Chapters 13, 24, 25, 26, 28, and 29 continuing after disposition of a complaint for these violations.

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

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

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

PERSON - any natural person, association, partnership, company, corporation, or other legal entity capable of owning, occupying, or using property in the City.

PERSON IN CHARGE - any person in actual or constructive possession of a property, including but not limited to, an owner or occupant of property under its, his, or her ownership or control.

PROPERTY - any real property, including land and that 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, whether permitted or not.

Procedure

- a. When the City Manager receives one (1) or more reports documenting the occurrence of nuisance activity on or within a property, the City Manager shall independently review such reports to determine whether they describe nuisance activities. Upon such findings, the City Manager may:

1. 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:
 - a. The street address or legal description sufficient for identification of the property; and
 - b. A statement that the City of DeKalb 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.

- b. Notification shall be made either personally or by first class mail, postage prepaid, 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 City Manager. This notification shall be made prior to the issuance of any “violation notice” as described in “Abatement – Administrative Hearing”
 - a.

 - c. A copy of the notice shall be provided to the taxpayer of record at such address as is shown on the tax rolls of the county and/or on the occupant, at the address of the property, if these persons are different from the person in charge, and such notification shall be made either personally or by first class mail, postage prepaid.

 - d. The failure of any person to receive notice, as made in section b or c above, that the property may be a chronic nuisance property, shall not invalidate or otherwise affect the proceedings under this Section.

 - e. Except in the case of a nuisance activity where a search warrant was executed at the property, 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 City Manager 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 City Manager may agree to postpone legal proceedings for a period of not less than ten (10) nor more than thirty (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 thirty (30) days, the City Manager may commence a legal proceeding to abate the nuisance.

Abatement - Administrative Hearing

- a. The City Manager shall issue a “violation notice” in accordance with Chapter 17 Section 17.03 (b) “Violation Notice.”

- b. At a 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.

- c. If a property owner is noticed before the hearing officer due to chronic nuisance property, the property owner shall give notice, in writing, to all of his tenants on that

property. Said notice shall provide the following: The physical address of the property; the date and time that the property owner is to appear before the hearing officer; the fact that the appearance is due to alleged nuisance activity; and the possible sanctions that may be imposed upon the property owner. The notice shall be delivered, either personally or by U.S. Mail, proper postage prepaid, to each tenant on the property and must be posted in a prominent location on the property where the tenant(s) are likely to see it.

d. The administrative procedures enumerated in Chapter 17 Section 17.04 "Administrative Hearings" will be followed. The hearing officer may issue findings, decisions, and orders as enumerated hereafter.

1. 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, a fine of not less than \$250.00 and not 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 his discretion, impose such a fine for each day the nuisance activity goes unabated.
2. In the event the hearing officer determines a property to be a chronic nuisance property, the hearing officer may order that the property be closed and secured against all use and occupancy for a period of not less than one (1) day, but not more than three hundred sixty-five (365) days, or the hearing officer may employ any other remedy permitted under Chapter 17.
3. In determining what remedy or remedies to employ, the hearing officer may consider evidence of other conduct which has occurred on the property, including, but not limited to:
 - 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;
 - f. The disturbance of neighbors;
 - g. The occurrence of other nuisances on or from the property; and
 - h. The property's general reputation and/or the reputation of persons in or frequenting the property.
4. The hearing officer 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 hearing officer. 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 a lien against the property and shall constitute a debt to the City. As used herein, "costs" mean those costs actually incurred by the City for the physical securing of the property, the recording and release fees, and the penalty and administrative fee as set forth in Chapter 12.

the code official or his designee may apply to the circuit court for a search warrant or other appropriate court order authorizing such inspections.

NO EFFECT ON LEASES:

With the exception of the provisions set forth in Section "Owner Responsibility" of this chapter, 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.

PENALTY FOR VIOLATION:

Any person, firm or corporation violating any of the provisions of this chapter, in addition to other legal and equitable remedies available to the city, shall be fined as provided in Chapter 1, Section 1.06 of this code. Each day during which a violation of this chapter continues or is permitted to exist shall be considered a separate and distinct offense.

MISCELLANEOUS FEES:

The fees set forth below shall be imposed on the owner of any rental residential property upon the occurrence of the described activity:

Second reinspection, following first reinspection:	\$ 200.00
Third reinspection	\$ 300.00
Fourth reinspection	\$ 400.00
Late payment on any imposed fee that is 30-60 days overdue:	\$ 50.00
Late payment on any imposed fee that is more than 60 days overdue:	\$ 100.00
Cancelled inspection or missed inspection:	\$ 50.00

(Scheduled inspections must be cancelled not later than the business day immediately preceding the inspection date in order to avoid a cancellation fee.)

Suspended license:	\$100.00
Revoked license:	\$ 500.00

SEVERABILITY:

If any provision, clause, sentence, paragraph, section, or part of this chapter or application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter and the application of such provision to other persons or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent of the city council that this chapter would have been adopted had such unconstitutional or invalid provisions, clause, sentence, paragraph, section or part thereof not been included.