

CITY OF HAMMOND
ORDINANCE NO. _____

An Ordinance to Remedy or Abate Chronic Nuisance Properties

WHEREAS, The City Council finds that certain properties within the City receive and require more than the general, acceptable level of police, fire, and law enforcement services and place an undue and inappropriate burden on City of Hammond taxpayers, and constitute public nuisances, and

WHEREAS, The City Council finds that some property owners take little or no responsibility for the maintenance of their property until the city, through its various inspections programs, has repeatedly ordered them to remedy violations of the property maintenance provisions of the City of Hammond Code of Ordinances. Such property owners create excessive costs for the city which are over and above the normal cost of providing inspection services city-wide. Property owners who must repeatedly be ordered to remedy code violations on their property consume an unacceptable and disproportionate share of limited city resources, and

WHEREAS, nuisance activity contributes to the general decay of an affected neighborhood and negatively impacts law-abiding residents in these neighborhoods. This ordinance provides a method for the City to use in a progressive manner when working with property owners to abate nuisance activities occurring on their properties, and

WHEREAS, the City Council determines that the city will charge the owners of such properties with the costs associated with abating nuisance activity at properties where nuisance activities chronically occur, and

WHEREAS, this ordinance is not intended to affect a Property owner's duty to comply with other ordinances governing conduct on properties which are contained in the Hammond Code of Ordinances and this ordinance is not intended to discourage crime victims or a person in legitimate need of city services from requesting them, and

WHEREAS, this ordinance is determined to be necessary to provide for the general welfare of the citizens of Hammond and to maintain good order and safety of the public.

THEREFORE BE IT ORDAINED by the City Council of Hammond, Louisiana, that the following is hereby adopted to be included in the Book of Ordinances as Chapter 17.7 Article IV:

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Chapter 17.7

HUMAN RELATIONS

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ARTICLE IV. CHRONIC NUISANCE PROPERTIES

Sec. 17.7-51. Purposes.

It is the intent of the City Council by the adoption of this ordinance to impose on and collect from the Owner of a property the city cost for services which are over and above the cost of providing normal law enforcement services, police protection and code enforcement city-wide, if the said excess costs are spent to abate a nuisance which has occurred, or is maintained and permitted, on the Property. The collection of the costs for such excess services shall be by assessment against the Property on which the nuisance, or activity constituting the nuisance, occurs, pursuant to the authority in Section 1-06 of the city charter empowering the City to promote, protect and preserve the general welfare, safety, health, peace and good order of the City. Nothing herein shall prevent the city from using the authority and procedures in any other provision of the charter, city ordinances, state law or federal law.

Sec. 17.7-52. Definitions.

For the purpose of this ordinance, the terms defined in this Article shall have the meanings ascribed to them as follows:

Code Enforcement Officer means the person charged with the enforcement of the various provisions of the City of Hammond Code of Ordinances.

Excessive Consumption of Inspection Services shall mean collectively or individually excessive initial inspections and reinspection services.

Excessive initial inspection means an inspection and observation of a new violation by a code enforcement officer at a specific property address after a code enforcement officer has conducted two (2) prior initial inspections within a twelve-month period and found violations of the City of Hammond Code of Ordinances and the Owner was provided notice of a previous violation as provided herein.

Excessive inspection services fee means the fee to be imposed for a reinspection or excessive initial inspection. The fee shall include, but not be limited to: the pro rata salaries of code enforcement officers performing inspections of the Property; the pro rata cost of equipment, materials and all other overhead costs used during inspection of the Property, including ownership searches and administrative and clerical costs; and the costs of any medical treatment of enforcement officers injured as a result of these inspections.

Excessive police and code enforcement services. Excessive police and code enforcement services means those services provided at a specific property address after three (3) or more verified incidents of separate nuisance events had occurred in a prior one hundred eighty-day time period, where the Owner was notified in writing that subsequent nuisance incidents would result in a fee being charged for excessive consumption of those services, and where the Owner had been provided with thirty (30) days following notice of nuisance incidents to abate the nuisance.

Interested party. "Interested party" means any known lessee or tenant of a Property, any known agent of an Owner, lessee, or tenant; any known person holding a recorded interest or in physical possession of the Property; or any other person who maintains or permits a nuisance and is known to the city.

Last known address shall be the address shown on the records of the City of Hammond Tax Department. In the case of parties not listed in these records, the last known address shall be that address obtained by the city after a reasonable search. If no address can be found, such address shall be that of the Property in which the nuisance occurred, or was maintained or permitted.

Nuisance. Nuisance means one or more of the following behavioral incidents occurring or committed within a Property:

- (1) Prostitution or prostitution-related activity committed within the Property;
- (2) Gambling or gambling-related activity committed within the Property;
- (3) Cruelty to Animals under Section 21-102.1 of the Hammond Code of Ordinances;
- (4) Unlawful ownership of a dangerous dog under Section 21-102.14 of the Hammond Code of Ordinances;
- (5) Unlawful ownership of a vicious dog under Section 21-102.15 of the Hammond Code of Ordinances;
- (6) Cockfighting under Section 21-102.23 of the Hammond Code of Ordinances;
- (7) Disturbing the Peace under Section 21-103 of the Hammond Code of Ordinances;
- (8) Keeping a Disorderly Place under Section 21-104 of the Hammond Code of Ordinances;

(9) Letting a Disorderly Place under Section 21-105 of the Hammond Code of Ordinances;

(10) Obscenity under Section 21-106 of the Hammond Code of Ordinances;

(11) Discharging Air Guns under Section 21-114 of the Hammond Code of Ordinances;

(12) Discharging Firearms under Section 21-115 of the Hammond Code of Ordinances;

(13) Flag Desecration under Section 21-116 of the Hammond Code of Ordinances;

(14) Flag Burning under Section 21-116.1 of the Hammond Code of Ordinances;

(15) False Alarms under Section 21-117 of the Hammond Code of Ordinances;

(16) Fireworks under Section 21-119 of the Hammond Code of Ordinances;

(17) Unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or use of controlled substances committed within the Property;

(18) Unlicensed sales of alcoholic beverages committed within the Property in violation of Article II, Section 5 and Section 21-91 of the Hammond Code of Ordinances;

(19) unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the Property in violation of Section 5 and Section 21-91.3, or unlawful consumption or possession within the Property by persons under the age of 21 years in violation of Section 21-91 through Section 21-91.6 of the Hammond Code of Ordinances;

(20) Unlawful use or possession of a firearm in violation of Section 21-95 of the Hammond Code of Ordinances, committed within the Property;

(21) Actions which constitute a violation of Section 21-120 through Section 21-120.11 of the Hammond Code of Ordinances, relating to noise regulations.

(22) Actions which constitute a public nuisance or criminal conduct under local, state, or federal laws, except as provided below.

Notwithstanding anything to the contrary, the term nuisance does not include activities, behaviors, or conduct that result in a call for assistance made by any person requesting law enforcement services related to any of the following: "domestic abuse battery" as defined in LRS 14:35.3 or in Hammond Code, Section 21-35.3; "domestic abuse aggravated" as defined in LRS 14:37.7; "rape and sexual battery" as defined in LRS 14:41-43.5; and "stalking" as defined in LRS 14:40.2.

Notwithstanding anything to the contrary, actions which constitute a violation of Section 17-16 of the Hammond Code of Ordinances; relating to cutting of grass, weeds and brushes and the removal of trash, rubbish and garbage shall continue to be governed by Article II, Chapter 17 of the Code of Ordinances.

Notwithstanding anything to the contrary, actions which constitute a violation of Section 20-17 of the Hammond Code of Ordinances; to relating to abandoned, wrecked, junked, partially dismantled or inoperative vehicles shall continue to be governed by Article II, Chapter 20 of the Code of Ordinances.

Owner: "Owner" means the person or persons in whose name or names the Property is recorded with the City of Hammond Tax Department for taxation purposes.

Personal service: Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

Property: “Property” means the real property of the Owner and includes any structure suitable for human shelter, a commercial structure that is maintained for business activities that involve human occupation, or any other improvement situated on the Property.

Reinspection means that a code enforcement officer has conducted an inspection of the Property based upon a complaint or otherwise had occasion to view the Property and observed a violation of any provision of the City of Hammond Code of Ordinances and issued a written notice of the violation(s), and reinspected the Property to determine compliance with the notice and found noncompliance.

Violator means any person who has caused or created or allowed any nuisance to occur.

Sec. 17.7-53. - Notice of nuisance.

(a) If the chief of police or his or her designee or the code enforcement officer or his or her designee has reason to believe that a nuisance has occurred, or is maintained or permitted in a Property, and intends to seek reimbursement for city services rendered in the future in connection with such nuisance or activities creating a nuisance, he or she shall provide a written notice as required in this ordinance to the Owner and each interested party known to him or her.

(b) The written notice shall:

(1) State that a nuisance has occurred, or is maintained or permitted in the Property, and specify the kind or kinds of nuisance which has occurred, or is being maintained or permitted; and

(2) Summarize the evidence that a nuisance has occurred, or is maintained or permitted in the Property, including the date or dates on which nuisance-related activities have occurred or were maintained or permitted, provided, however, that one or more reports can be used to satisfy this requirement; and

(3) Inform the recipient of the notice that (i) he or she has thirty (30) days to abate the conduct constituting the nuisance, and (ii) require that within ten (10) days from the date of service of the notice, the recipient shall submit a written plan of action to the city to abate the nuisance activities. The plan will outline the specific measures that may include: better lighting, vegetative maintenance, no trespass or loitering signs, removing trash or abandoned vehicles, security cameras, stronger lease language, background checks, property or maintenance managers, private security details, or evictions; and.

(4) Inform the recipient that the City may abate the nuisance at the costs of the Owner or Violator if deemed necessary by the City, and inform the recipient that such fees and/or abatement costs will be collected by assessment against the Property and collection against the Violator as provided in this ordinance.

(c) The written notice shall be served by personal service, or by first class mail on the Owner, the Violator and all interested parties known to the city, at the last known address for each such person or persons as contained in the city records.

Sec. 17.7-54. Failure to submit plan or abate nuisance.

If, after ten (10) days from the date of service of the notice the recipient fails provide the city with an action plan to abate the nuisance or within thirty (30) days from the date of service of the notice, the nuisance re-occurs, or actions or conduct constituting a nuisance take place, the city may in its discretion impose the costs of city services in abating or attempting to abate such nuisance or nuisance-related activities, and (iii) the costs will be collected by assessment against the Property and collection against the Owner and Violator.

Sec. 17.7-55 Excessive consumption of inspection services, fee and liability.

(a) The city shall be entitled to collect its costs of enforcement from an Owner and Violator who consumes either reinspection services or excessive initial inspection services. An

excessive consumption of either reinspections or excessive initial inspection services occurs after:

(1) Written notice of a violation is served following an initial inspection; and

(2) One additional initial inspection is performed at the same Property within a consecutive twelve-month period after the first initial inspection for which a notice of violation was served; and

(3) During each of the two initial inspections under subparagraph (3), the code enforcement officer finds violations of the City of Hammond Code of Ordinances which are new violations; or

(4) Written notice of a violation is served following an initial inspection; and

(5) The code enforcement officer conducts an inspection after the due date for compliance on the notice and determines that the violation still exists.

(b) A flat fee of fifty dollars (\$50.00) may be charged for each excessive initial inspection or reinspection described under this ordinance.

(c) If the fee remains unpaid within thirty (30) days after notice, the City may abate the nuisance and collect the costs of abatement in addition to the fee, under paragraph (d) below.

(d) The amount of the excessive consumption of inspection services fee shall be a debt owed to the city and shall be a personal debt of such Owner and Violator to the city recoverable in any court of competent jurisdiction in an action at law by the city. Such debts, whether sued upon or not, shall also be a lien on all the Property of such person except as against an innocent purchaser for value without notice in the actual course of business, and shall have preference in any distribution of the assets of the person, or dealer, whether in bankruptcy, insolvency, or otherwise. The proceeds of any collection obtained hereunder shall be paid to the city.

Sec. 17.7-56. - Subsequent nuisance or nuisance-related activity; liability.

(a) If, within the period commencing thirty-one (31) days after a written notice is served pursuant to this ordinance and continuing for one (1) year thereafter, a nuisance occurs or is maintained or permitted in the Property, and city services are rendered to abate or attempt to abate such nuisance, the costs of providing such abatement or attempted abatement services within the said one year shall be assessed against the Property and collected from the Owner and Violator as provided in this ordinance.

(b) The costs for providing excess city services shall include but not be limited to the gross salaries including all benefits which are paid by the city to employees while responding to or dealing with the nuisance or nuisance-related activities, the prorata cost of all equipment including vehicles, the prorata cost of police dogs assisting law enforcement officers, the cost of repairs to any city equipment and property damaged in responding to such nuisance or nuisance-related activities, and the cost of any medical treatment of injured city employee.

(c) The city reserves its rights to seek reimbursement for costs and damages not recovered by assessment against the Property through other legal remedies or procedures, including collection against the Owner and Violator.

(d) Nothing in this ordinance shall be construed to require or prevent the arrest and/or citation of any person or persons for violations of federal, state or local laws or ordinances.

Sec. 17.7-57. - Cost of city services; annual assessment procedures.

(a) The city shall maintain a record of the costs per visit in response to nuisance activities. The cost of providing such services is determined by the gross salaries including all benefits which are paid by the city for employees while responding to or dealing with these nuisance activities, the prorata cost of all materials and equipment including vehicles, the cost of repairs to any city equipment and property damaged in responding to such nuisance activities,

and the cost of any medical treatment of any injured employee. These costs shall be recalculated from time to time. In addition to maintaining a record of the costs per visit, the city shall maintain a record on individual Properties of the cost of city services attributable to nuisances occurring after written notice has been sent to the Owner and interested persons. The city shall maintain a record of such information.

(b) *Resolution approving total, setting date of public hearing.* On or before October 1 of each year, the director of administration or his or her designee shall notify the city council of the total cost of such excessive city services performed during the previous year and the portion of such costs to be assessed against each Property that utilized excessive city services in response to nuisance activity. Upon receipt thereof, the city council shall by resolution fix a date for public hearing at which time the city council shall consider adopting and levying the service charges. The date of public hearing shall be at least fourteen (14) days after adoption of said resolution.

(c) *Notice of city council hearing.* Following the adoption of the resolution provided in paragraph (b) above, the director of administration shall publish a notice of the hearing in a daily newspaper of the city at least five (5) days prior to the public hearing. The notice shall state the date, time and place of hearing, the purpose of the hearing, identify the services provided, the name of the person and the Property to be assessed a service charge therefor, and shall state the proposed rates of service charges to be considered by the City Council.

(d) *Notice to Owner and interested parties.* At least ten (10) days before the hearing, notice thereof shall be mailed by first class mail or delivered to the Owner and any interested party known to the city, at his or her last known address. Such notice shall also inform the recipient of the notice (i) of the procedures he or she must follow in order to appeal the assessments to the district court, and (ii) of the provisions of this ordinance relating to assessments.

(e) *Public hearing; adoption of assessment roll.* On the date of public hearing the city council shall meet to consider the adoption of the proposed service charges. The city council shall hear all interested parties concerning the proposed charges. At such meeting or at any adjournment thereof, the city council may amend the proposed service charges, and shall, by resolution, adopt the service charges as a special assessment against the properties which utilized excessive city services in response to nuisance activities. Special assessments levied hereunder shall be payable in a single installment.

(f) *Certification for collection with taxes.* After adoption by resolution of the service charges and assessment rates therefor, and no later than November 15, the city clerk shall transmit a certified copy of said resolution to the city tax department to be extended on the proper tax list of the city and collected the following year along with current taxes.

(g) *Appeal.* Within twenty (20) days after adoption of the resolution adopting the service charges, any person aggrieved may appeal to the State district court in the manner set forth in Section 17.7-62.

Sec. 17.7 -58. - Conflict with other ordinances.

In any case where a provision of this ordinance is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance, chapter or code of this city, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

Sec. 17.7-59. - Administrative liability.

No officer, agent or employee of the city shall be rendered personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of their duties under this ordinance. No person who institutes, or assists in the prosecution of, a proceeding under this ordinance shall be liable in damages therefor unless they have acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission. Any suit brought against any officer, agent or employee of the city as a result of any act required or permitted in the discharge

of their duties under this chapter shall be defended by the city attorney until the final determination of the proceedings therein.

Sec. 17.7-60. - Procedure.

In addition to the penalties provided in this ordinance, the city may seek enforcement thereof in any court of competent jurisdiction by any appropriate form of civil action and may seek to enjoin any continued violation thereof and seek to compel obedience thereto by mandatory orders and writs.

Sec. 17.7- 61. - Termination of tenancy.

No tenancy of a Property may be terminated solely because of the commencement of an action pursuant to this ordinance or because of the report to the proper city authorities of a condition believed to be in violation of this ordinance. This section shall not preclude a termination of a tenancy in accordance with the agreement between the tenant and landlord.

Sec. 17.7- 62. - Appeals.

Any person affected by any provision of this ordinance may appeal any final decision of the City Council to the District Court of the Twenty-First Judicial District Tangipahoa Parish.

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2. All Ordinances in conflict therewith are repealed.

The above and foregoing ordinance having been duly submitted to the Hammond City Council in writing; introduced at a public meeting on _____, 2017 of the Hammond City Council and discussed at a public meeting held on _____, 2017; after motion and second was submitted to the official vote of the Hammond City Council.

On motion by _____ and a Second by _____ the foregoing ordinance was hereby declared adopted on _____, 2017, by the following roll call vote:

Votes: Johnny Blount () Jason Hood () Janice Carter Beard () Lemar Marshall () Mike Williams () Motion carried approved.

WHEREFORE the above and foregoing ordinance was declared duly adopted on this _____ day of _____, 2017, at Hammond, Tangipahoa Parish, Louisiana.

Lemar Marshall
President, Hammond City Council

Honorable Pete Panepinto
Mayor, City of Hammond

Tonia Banks, Clerk
Hammond City Council