

**AN ORDINANCE AMENDING CHAPTER 15, ARTICLE IV, DIVISION 1
OF THE URBANA CODE OF ORDINANCES**

(Criminal Nuisance Property)

WHEREAS, the City of Urbana has a population of more than 25,000 and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, both the effective control and elimination of criminal nuisance activity are essential to the health and welfare of the City of Urbana's inhabitants and visitors, as well as essential to the peace and quiet enjoyment of the City's neighborhoods; and

WHEREAS, the Illinois Legislature has, for a number of years, criminalized, as enumerated in 720 ILCS 5/37-1 *et seq.*, the maintenance of nuisance properties, said properties having been used to facilitate criminal activity unabated;

WHEREAS, the City of Urbana has an interest in encouraging the prompt and effective abatement of criminal nuisance behavior by property owners and occupants;

WHEREAS, the City of Urbana wishes create an Ordinance that prohibits the facilitation of, or acquiescence to, criminal nuisance activity on any property over which the City has jurisdiction;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section One:

Section 15-65, to be titled "Criminal Nuisance Property", is hereby created, and Chapter 15, Article IV, Division 1 of the City of Urbana Code of Ordinances shall be amended, as follows:

Section 15-65.

A. Definitions

Nuisance activities mean any of the following activities, behaviors, or conduct, as defined by federal or state statutes, as well as municipal ordinances:

- (1) Mob action.
- (2) Assault.
- (3) Battery.
- (4) Unlawful use of weapons or firearms.
- (5) Unlawful discharge of a firearm.
- (6) Prostitution.
- (7) Soliciting or patronizing a prostitute.
- (8) Keeping a house of prostitution.
- (9) Pandering.
- (10) Obscenity.

- (11) Sexual assault and sexual abuse.
- (12) Public indecency.
- (13) Unlawful manufacture, sale, distribution, possession, or use of controlled substances.
- (14) Unlawful, production, sale, distribution, possession, or use of cannabis.
- (15) Illegal gambling.
- (16) Keeping or maintaining a place of illegal gambling.
- (17) Unlawful possession of gambling devices.
- (18) Arson.

Nuisance property means any property on which the police department has two (2) or more official police reports of nuisance activity which has occurred within a six-month period.

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

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

Police chief means the Chief of Police of the City of Urbana or his designee.

Property means any property, including land and that which is affixed, incidental, or appurtenant to land, including, but not limited to, any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit, or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property may be limited to the unit or the portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of the property used in common by all units of property, including, without limitation, other structures erected on the property and areas used for parking, loading, recreational activities, and landscaping.

B. Violations

(1) Any property on which on which criminal nuisance activity occurs may be declared a criminal nuisance

property. No property shall be declared a criminal nuisance property unless it is proven by a preponderance of the evidence that there has been two (2) or more instances of nuisance activity within a six-month period of time.

(2) Any person or person in charge who (a) encourages or permits a property to become a nuisance property as defined in Subsection A.; (b) allows a property to continue as a nuisance property; (c) fails to implement reasonable and warranted measures, as specified by the police chief, shall be in violation of this section. In determining whether any person or person in charge implemented reasonable and warranted measures, the trier of fact shall consider, at least, the following:

(3) Each day that a violation of this section continues shall be considered a separate and distinct offense. The fine for violation of this Section shall be no less than \$300.00 per incident per day and no more than \$750.00 per incident per day or the maximum per incident allowed by the Code of Ordinances, whichever is greater. Such fine shall be a judgment against the guilty person(s), owner(s), occupant(s), or person(s) in charge jointly and severally. In establishing the amount of any fine, the hearing officer may consider any of the following factors:

- a. The actions taken by the person in charge/owner/occupant to mitigate or correct the nuisance activities at the property.
- b. The repeated or continuous nature of the problem.
- c. The magnitude or gravity of the problem.
- d. How cooperative the person in charge/owner/occupant is with the City of Urbana in abating.
- e. The cost to the city of investigating, correcting, or attempting to correct the nuisance activities.
- f. Any other factor deemed relevant by the trier of fact. Evidence of a property's general reputation and/or the reputation of the persons in it, or frequenting it, shall be admissible.

(4) If a person or person in charge is found guilty of a violation of this section, the court shall, in addition to fining the party, order the person in charge/owner/occupant to take reasonable, timely, and lawful measures to abate the nuisance activity, including specifying deadlines for the same.

(5) In addition to the penalties above, the City of Urbana may, at its discretion, take the following actions:
(a) Suspend the rental license at a criminal nuisance property, if such property is rented or leased. If such license is suspended, the owner of the property shall close and secure said property against all unauthorized access, use, and occupancy for a period of not less than thirty (30) days, or more than 180 days. If the City suspends the rental license of a property, the person in charge, or the owner/occupant of the property, if those persons are different than the person in charge, shall receive written notice from the Community Development Department that his/her license to operate rental property within the corporate/jurisdictional limits of the City is suspended. The suspension of any license shall not release or discharge the license holder from paying fees or fines under this Code, nor shall such license holder be released from criminal prosecution or further civil proceedings.

Section Two.

This Ordinance, as amended, shall be in full force and effect, and shall be controlling, immediately upon its passage and approval.

Section Three.

All ordinances, or parts of ordinances thereof, which are in conflict with the provisions of any portion of this Ordinance, as amended, are hereby repealed to the extent of any conflict.

Section Four.

A prosecution which is pending on the effective date of this article and which arose from a violation of an ordinance repealed by this article, or a prosecution which is started within six (6) months after the effective date of this article, arising from a violation of an ordinance repealed by this article, shall be tried and determined exactly as if the ordinance had not been repealed. If any portion of the foregoing amendment to Chapter 15 shall be found, by a court of competent jurisdiction, to be unlawful or unconstitutional, the remaining parts of this Ordinance will remain in full force and effect.

Section Five.

This article applies to all properties within the corporate or jurisdictional limits of the City of Urbana.

PASSED by the City Council this _____ day of _____, _____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, _____.

Laurel Lunt Prussing, Mayor