



## MEMORANDUM

Patrick W. Hayes  
Director  
Legal Department

January 28, 2013

To: All Aldermen

From: Jennifer Cacciapaglia, City Attorney *JCC*

Re: Chronic Nuisance Ordinance

Aldermen,

Please find attached hereto a Chronic Nuisance Ordinance, as amended. The amendments were made after discussions with both staff and representatives of the Shriver Center, and staff believes the attached ordinance will withstand a legal challenge.

Staff continues to strongly advise against the passage of the Residential Quality Support Ordinance as amended and distributed at City Council on January 22, 2013, as staff's original concerns regarding the legality of this proposal were not addressed by the amendments.

Specifically, the amended version continues to require the city to create a mandatory Housing Board to which cases of chronic nuisance activity must be referred. Section 17-51 (a) of the document states, in relevant part, "After independent review of any police reports and determination by the City Official that the activity described therein as occurring upon the Residential Rental Property meets the definition of a Chronic Nuisance...the City Official shall refer the case to the Housing Board." Additionally, the amended version continues to contain an expansion of notice requirements for code hearing violations. The city is strictly bound by the plain language of the enabling statutes which provide authority to the city to create an administrative adjudication process for addressing sanitation and property maintenance violations. Further, neither the RAA/RAAR ordinance nor the ordinance recommended by staff includes property maintenance violations in the definitions of nuisance activity. Under the terms of both proposals, property maintenance violations will not trigger the Chronic Nuisance Abatement Procedure, and, as such, the language of sub-paragraphs (d) and (e) is misplaced, at best.

Should the City Council wish to consider an ordinance to address repeated nuisance activity, the attached Chronic Nuisance Ordinance is a legally sound ordinance which preserves the Housing Board in a legal, advisory capacity, and removes any illegal expansion of notice requirements in property code violation cases.

## Article IV Chronic Nuisance Ordinance

### Sec. 17-49 Definitions

- (a) *Dwelling Unit* means any structure or part of a structure used as a home residence, providing living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation, including, but not limited to apartment units, boarding houses, rooming houses, ~~emergency shelters~~, mobile home spaces, public housing, subsidized housing and single and multi-family dwellings.
- (b) *Chronic Nuisance* means nuisance activity which occurs on ~~three~~ 3 or more instances, on the same property or dwelling unit, during any 120 day period of any one or any combination of the activities listed below and as a result of any ~~three~~ 3 separate factual events occurring on three separate days that have been independently investigated by any law enforcement agency that have resulted in an arrest, issuance of a warrant for an arrest, or issuance of a ticket or citation.
1. Disorderly conduct as defined in Section 26-1 of the Criminal Code of 1961.
  2. Any felony crime or class A misdemeanor.
  3. Violation of Chapter 19, Sections 19-4 or 19-5 of the City of Rockford Code of Ordinances controlling offensive use of property.
- An act of domestic violence, dating violence, sexual assault or stalking in which the victim is the Tenant or Occupant shall not qualify as a Nuisance Activity under this ordinance.
- (c) *City Official* - means the Chief of Police, the Deputy Director of Community Development, the Building Code Official, Legal Director, or any of their designees.
- (d) *Housing Board* is a an appointed committee whose purpose is to, ~~when called upon by the City Official~~, provide a forum for an alternative dispute resolution private mediation service and evaluate in cases situations where Chronic Nuisance Activity is occurring and recommend what action is necessary to abate the Nuisance Activity. The Housing Board shall be an advisory committee in the event the City Official files a case in circuit court. ~~The Housing Board and~~ consists of community volunteers who reside in the City of Rockford, are appointed by the Mayor and approved by a majority vote of the Rockford City Council to staggered 3 year terms. The Housing Board shall establish its own procedures and may, by a majority vote of the board members, appoint a licensed attorney who resides in the City of Rockford to volunteer as legal counsel to the board. Legal counsel shall be advisory only and not a voting member of the board.

~~The Rockford Apartment Association and the Rockford Area Association of Realtors shall be solely responsible for any and all staffing needs and costs associated with the operation of the Board, as well as for providing meeting notices to interested parties and persons who may come before the Board. Any costs associated with convening the Housing Board shall be established at a later date, pursuant to the city Fee Ordinance.~~ The eCity Official shall not be required to utilize the alternative dispute resolution forum ~~private mediation service~~ provided by the Housing Board prior to commencing the procedure for addressing chronic nuisance activity in Section 17-51 of this Article. Housing Board members shall not be employed by any unit of government or any housing authority. The board members shall be comprised of the following:

1. A person who is an active member of a neighborhood association while serving on the Housing Board;
2. A person who is an active member of the Rockford Apartment Association while serving on the Housing Board is a current Owner and has a minimum of 5 years of experience as an Owner;
3. A person who is an Illinois licensed real estate broker, experienced in residential rental investments, and who is an active member of the Rockford Area Association of Realtors while serving on the Housing Board;
4. A person who has leased his residence in the City of Rockford for 2 consecutive years preceding his appointment and continues to lease his residence while serving on the Housing Board; and
5. ~~A person who has provided social services in the City of Rockford for 2 consecutive years preceding his appointment and continues to provide such services or other assistance while serving on the Housing Board. A citizen at large.~~
6. Two citizens at large.

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- (e) *Nuisance activity* - means any activities described in items 1 through 3 of subsection (b) of this Section and which property owner has been notified as having occurred, provided owner has supplied the City of Rockford with contact information by registering information at an on line site provided by the city. If owner has failed to register contact information through an on-line registration system provided by the City of Rockford, notice to the owner shall not be a condition precedent to proceeding under the terms of this ordinance.
- (f) *Occupant* means any person with a legal right to reside in the property.
- (g) *Owner* means any person having any legal or equitable interest to title in the property in question.

- (h) *Person* means any natural person, partnership, limited partnership, corporation, limited liability company, or other entity organized under the laws of the any state of the United States.
- (i) *Permitted* means to knowingly suffer, allow, consent to, acquiesce or expressly assent or agree to the doing of an act.
- (j) *Property Manager* means a natural person representing himself, a partnership, corporation, unincorporated association, limited partnership, trust or any other entity, who has been designated by an Owner, to whom notification of incidents of nuisance activity or code violations may be made, and who has authority to resolve issues identified within said notice. An Owner may designate himself as Property Manager.
- (k) *Residential Rental Property* means any property on which one or more dwelling units are located that the Owner thereof rents, either entirely or in part, to another person for occupancy as a Dwelling Unit

**Sec. 17-50 Contact Information required**

Except as otherwise provided in this article, it shall be unlawful and a violation of this section for any residential rental structure, in whole or in part, to be occupied, rented, or leased, unless the Rental Property Owner has provided property contact information with the city of Rockford. Except as otherwise provided herein, no fee shall be imposed on an Owner for providing contact information.

- a. All landlords shall register each residential rental property with the City of Rockford \_\_\_\_\_ Department. Such registration shall be made on line at \_\_\_\_\_ with a software program provided by the City of Rockford. The information registered must include:
  - 1. Identify the location of the property by common address and Property Identification Number (PIN);
  - 2. The number of rental units in the structure;
  - 3. The name, address, e-mail address and telephone of each owner of the structure. For purpose of this section, a contract buyer is not deemed the owner of the property;
  - 4. The name, address, e-mail address and 24-hour telephone(s) of the property manager or custodian of the property who lives within one hundred and twenty (120) miles of the city of Rockford, unless at least one owner of the structure satisfies this qualification;
  - 5. The physical address of each Owner or their registered agent for service of process. In the case of a trust or corporation, the name and contact information of a natural person that is the trustee/executor of the trust or corporation will suffice;

6. An optional field of the names of each Tenant will be provided. An Owner shall not provide the names of each Tenant unless the terms of their lease stipulate that the information may be disclosed.
  7. Such other information as the City may reasonably require.
- b. Unless otherwise specifically provided herein, registration of property contact information shall be renewed every two years. Property Contact information registration renewals shall occur between February 1<sup>st</sup> and March 1<sup>st</sup> of each calendar year
  - c. During each two-year registration period if there is any change in the information provided to the city on the form for registration of property contact information, the Rental Property Owner shall update information on line within thirty (30) calendar days.
  - d. Failure to comply with the requirements of this ordinance to provide property contact information for a residential rental structure within thirty (30) calendar days of the deadline as provided by the ordinance shall result in a fine of fifty (\$50.00) dollars.

Failure to comply with the requirements of this ordinance to provide contact information for a residential rental structure within thirty-one (31) to sixty (60) calendar days of the deadline as provided by the ordinance shall result in a fine of one hundred and fifty (\$150.00) dollars.

Failure to comply with the requirements of this ordinance to provide contact information for a residential rental structure within sixty-one (61) calendar days of the deadline as provided by the ordinance shall result in a fine of fifty (\$50.00) dollars to seven hundred and fifty (\$750) dollars per day until the Rental Property Owner is in compliance.

**Sec. 17-51 Procedure for addressing chronic nuisance activity.**

- a. After independent review of any police reports and determination by the city official that the activity described therein as occurring upon the property meets the definition of a chronic nuisance and that the owner or occupant permitted the nuisance activity to continue, the city official may require that the owner thereof or its property manager and the occupant meet with the city official to discuss the Nuisance activity and steps the owner and occupant can take to mitigate or abate the activity in accordance with the following procedure:

1. The city official shall notify the owner or their property manager who the owner has registered as having authority to represent the owner in writing that activity at the property has met the status of a chronic nuisance. Such notice shall be provided by either personal delivery or by certified mail or by other reputable courier service that provides written confirmation of delivery, addressed to the owner or the owner's property manager.

2. Notice shall also be sent in the same manner to the occupants of the property if known to the city. If the occupants are not known to the city then notice shall be sent by first class mail to any dwelling unit(s) where activity has met the status of a chronic nuisance, but failure of the residents of such dwelling unit(s) to respond and meet with the city official shall not be the basis for any penalties against the owner or occupants under this Article. The city official shall also send notice by first class mail or other reputable courier service that provides written confirmation of delivery to the occupant of the property, as registered by the owner.

3. The notice shall contain the following information:

(a) The street address or a legal description sufficient for identification of the property where the nuisance activity has occurred.

(b) A statement by the city official with a detailed description of the offenses which meet the standard of nuisance activity and that the nuisance activity has become a chronic nuisance as defined by this ordinance

(c) Demand that the owner or property manager and occupant when the property is not owner occupied respond and meet with the city official within 10 business days of confirmation of delivery of notice. Refusal of receipt of notice by the owner or occupant shall be deemed receipt of the notice for the purposes of this Section.

b At the meeting between the city official and the owner or property manager and the occupant, the city official may request that the owner and occupant implement a reasonable abatement plan designed to alleviate and prevent future occurrences of the nuisance activity upon the property. The abatement plan ~~may~~ shall include, but shall not be limited to any of the following:

1. -A requirement that the owner perform necessary maintenance and repair of existing access, security and lighting, limiting access to common areas through the installation of locks, graffiti removal and the posting of "No Trespass" signs;
2. Banning individuals who are not tenants of the property who engage in nuisance activity in accordance with 735 ILCS 5/9-106.2 (g);
3. Initiating eviction proceedings with municipal assistance against tenants who have permitted the nuisance activity and who are not the victim of the nuisance activity or a victim of domestic violence, dating violence, sexual violence or stalking;

4. Requiring that the owner implement tenant screening policies and procedures and attend professional property management training.

The abatement plan shall be reasonable under the circumstances in its objective, cost and scope, and shall be commenced and fully implemented within 30 days of the meeting with the city official or such longer period to be fully implemented if not practically feasible to do so within 30 days.

- c. If the nuisance activity has or is being conducted by an occupant of the property or a guest of the occupant then the occupant shall be advised of their obligation to maintain the premises in compliance with the laws listed in section 17-49 (b) of this ordinance and that failure to do so may result in the following actions: termination of the occupant's legal right of control of the property or the imposition of fines against the occupant.
- d. In the event the occupant fails to respond and meet with the city official or the occupant permits the continuation of the nuisance activity then the city official may inform the owner that owner's failure to take appropriate action to rescind occupants legal right of control of the property shall be considered as the owner permitting the continuance of the nuisance activity.
- e. If owner files suit to regain control of the property based on information provided by the city official then the city official shall assist by reasonably cooperating with the owner, including, but not limited to, providing law enforcement officers or any other municipal or county employee as witnesses regarding the nuisance activity.
- f. If, after complying with the procedures of Section 17-51 (b):
  1. Between 30 and 365 days after the meeting, the city official receives a report documenting the occurrence of a subsequent nuisance activity upon the property which was permitted by the owner, or
  2. The owner, within 30 days of the meeting or such other reasonable amount of time under the circumstances, fails to cause the implementation of a reasonable abatement plan as requested by the city official, or
  3. The owner fails to respond and meet with the city official within the 10 business day period without good cause, then the City of Rockford may seek that the activity be declared a chronic nuisance in a civil action in a court of proper jurisdiction.

When an owner or the owner's representative or an occupant responds and meets with the city official as required above, no statements made in connection with the furnishing of

that response or in a meeting shall constitute or be used as an admission that any nuisance activity has or is occurring. This subsection does not require the exclusion of any other evidence which is otherwise admissible and offered for any other purpose than an admission by the owner or the owner's representative or by the occupant.

**Sec 17- 52 Commencement of action; burden of proof; determination of a chronic nuisance; defenses:**

- a The City of Rockford, in a civil action in a court of proper jurisdiction, may seek a declaration that the owner or occupant of a property has permitted a chronic nuisance under this Ordinance. The City shall have the initial burden of showing by a preponderance of the evidence that:
  - 1 the activity at the property meets the standard of a chronic nuisance as set forth in Section 17-49 (b); and
  - 2 the procedures of Section 17-51 were followed by the city official; and
  - 3 either the owner or the property manager failed to respond to notice served pursuant to Section 17-51 (a) (1) or failed to implement an abatement plan pursuant to Section 17-51 (b).
- b Upon the court determining that the elements of subsection (a) of this Section have been met, then the court may, after the consideration of any defenses set forth below and all other facts and circumstances deemed relevant by the court, declare that the owner or occupant of the property permitted a chronic nuisance.
- c It is a defense for the owner or occupant of the property to an action seeking the declaration of the activity as a chronic nuisance that the owner or occupant of the property, at the time in question could not, in spite of the exercise of reasonable care and diligence, prevent a third party from engaging in the conduct constituting the subsequent occurrence of nuisance activity.
- d The following shall also be defenses for an owner:
  - 1. If prior to the owner being served process of the civil action, the owner or the owner's representative notified a law enforcement agency of suspected nuisance activity occurring on the property; or
  - 2. The owner or property manager has begun legal proceedings to regain control of the property from an occupant who permitted the nuisance activity; or
  - 3. That the nuisance activity was conducted by a person who has been banned from the property; or
  - 4. An owner has made a good faith effort to implement the reasonable abatement plan requested by the City Official, pursuant to Section 17-51 (b) but the nuisance activity has not been abated; or



5. An owner, in trying to abate the nuisance activity attempted legal action to regain control of the property from an occupant who permitted the nuisance activity but was denied by a court.

**Sec. 17-53 Penalties.**

a If a court determines that a chronic nuisance, as defined in Section 17-49 (b), exists at the property, the following abatement of penalties may be imposed by the court upon the owner or the occupant:

- 1 A civil fine not to exceed \$750.00 per day or an injunction requiring the abatement of the nuisance activity that resulted in the activity being declared a chronic nuisance by the court.
2. Notwithstanding clauses (a) 1 of this Section, and whether or not it is a first or subsequent offense, if the court finds that an owner failed to respond and meet with the city official within the time prescribed without good cause, or if the court finds that an owner willfully failed to implement of reasonable abatement plan requested by the city official , the court may impose a civil fine or an injunction prohibiting the occupancy of the property where the nuisance activity reached the status of a chronic nuisance or in the case of a multi-unit property, any dwelling unit thereof in question, for a period of up to 6 months. In the event occupancy is by lease agreement then the injunction prohibiting occupancy shall begin upon expiration of the current lease term.
3. Any fines imposed on the owner and remaining unpaid after 60 days of imposition of said fines shall attach to the property where the nuisance activity occurred as a lien.

b If the court issues an injunction requiring the abatement of nuisance activity by a date certain set forth in the order for injunctive relief, the court, in its discretion, may impose a further fine not to exceed \$750 per day for each day the nuisance activity persists after the date certain,

c In imposing any penalty, the court shall consider the following factors, and shall cite those found applicable:

1. The action or lack of action taken by the owner or occupant to abate the nuisance activity upon the property; and
2. Whether the nuisance activity upon the property was repeated or continuous; and

3. The magnitude of gravity of the nuisance activity; and
4. The cooperation of the owner or property manager with the city official;  
and
5. The cost to the City of Rockford for investigating and correcting or attempting to correct the nuisance activity; and
6. Whether or not the nuisance activity could have been prevented by the owner or property manager exercising reasonable care and under the circumstances.

Sec. 17-54. Enforcement

The \_\_\_\_\_ Department shall have primary responsibility for enforcing this Chapter. All leases and rental agreements in existence on the effective date of this article shall be brought into compliance with the terms of this article upon renewal of a lease or issuance of a new lease. All residential rental property must be brought into compliance with the terms of this Chapter by \_\_\_\_\_.

**Sec. 17-55 Federal Law**


Nothing in this Article shall preempt, supersede or alter the rights and responsibilities with respect to housing created by federal law, including but not limited to the United States Housing Act of 1937 as amended, Sections 202, 221 and 236 of the National Housing Act as amended, Section 515 of the Housing Act of 1949 as amended, Section 42 of the Internal Revenue Code, Title II and Title VIII of the Cranston-Gonzalez National Affordable Housing Act as amended and the Title IV of the McKinney-Vento Homeless Assistance Act as amended, the Homeless Emergency Assistance and Rapid Transition to Housing Act as amended, and all regulations implementing these laws.

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MEMORANDUM

January 14, 2013

To: All Aldermen

From: Jennifer Cacciapaglia 

Re: Chronic Nuisance Ordinance

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Aldermen,

Please find attached hereto a copy of four documents. The first is a copy of the opinion from an attorney representing the Rockford Apartment Association (RAA) and Rockford Area Association of Realtors (RAAR). The opinion was provided to the Codes and Regulations Committee by Alderman Carl Wasco on January 7, 2013. The second document is a copy of the Illinois Municipal Code governing Administrative Adjudications. This is the statute referred to in the opinion provided to the Codes and Regulations Committee, but a copy of it was not distributed to committee members. The third document, entitled "Residential Quality Support Ordinance," is the Ordinance passed out of committee on January 7<sup>th</sup>, against the city legal advice that the Ordinance was not legally sound. The fourth document, entitled "Chronic Nuisance Ordinance," is an ordinance which staff believes will withstand a legal challenge and accomplishes much of the same goals as the Residential Quality Support Ordinance by providing for a process to address nuisance activity at residential rental property.

Staff strongly advises against the passage of the Residential Quality Support Ordinance as it passed out of Codes and Regulation Committee for two reasons. First, as a non-home rule municipality, the City of Rockford does not have the authority to create a mandatory Housing Board to which cases of chronic nuisance activity must be referred. While Rockford does have the authority, specifically granted by state law, to define and abate nuisances, this authority has limits, and the creation of an administrative body and alternate system of adjudicating nuisances extends beyond our authority to abate nuisance activity. The creation of such a system is an illegal extension of our nuisance abatement authority. Second, Section 17-50, sup-paragraphs (d) and (e) of the Residential Quality Support Ordinance proposes an illegal expansion of notice requirements for code hearing violations. The city is strictly bound by the plain language of the enabling statutes which provide authority to the city to create an administrative adjudication process for addressing sanitation and property maintenance violations. These enabling statutes mandate notice requirements the city must follow when instituting a code hearing case. Additionally, neither the RAA/RAAR ordinance nor the ordinance recommended by staff includes property maintenance violations in the definitions of nuisance activity. Under the terms of both proposals, property maintenance violations will not trigger the Chronic Nuisance Abatement Procedure, and, as such, the language of sub-paragraphs (d) and (e) is misplaced, at best. If the Rockford Apartment Association and Rockford Area Association of Realtors wish to expand the duties of this municipality

outside of the terms of the enabling code hearing legislation, they must do so by taking the proper steps to amend the Illinois statutes.

While the opinion (document 1) provided to the Codes and Regulations Committee was cited as a basis for the authority to the city to pass the Residential Quality Support Ordinance, the opinion refers to a statute that applies only to municipalities that are home rule units (document 2, Sec.1-2.1-1), thereby making the statute moot and the reliance on it for any perceived authority to Rockford erroneous.

Should the City Council wish to consider an ordinance to address repeated nuisance activity, the Chronic Nuisance Ordinance (Document 4) is a legally sound ordinance which preserves the Housing Board in a legal, advisory capacity, and removes any illegal expansion of notice requirements in property code violation cases.

**Jennifer Cacciapaglia**

DOCUMENT #1

**From:** Conor Brown <cbrown@iar.org>  
**Sent:** Tuesday, January 08, 2013 2:02 PM  
**To:** Jennifer Cacciapaglia  
**Subject:** Fwd: Residential Rental Quality Support  
**Attachments:** scannerennw@sorlinglaw.com\_20121220\_043959.pdf

----- Forwarded message -----

**From:** **Todd M Turner** <tmtturner@sorlinglaw.com>  
**Date:** Wed, Dec 19, 2012 at 3:02 PM  
**Subject:** Residential Rental Quality Support  
**To:** Conor Brown <cbrown@iar.org>

Conor:

I have attached from the Illinois Municipal Code the Division on Administrative Adjudications. This section is a "suggestion" as to how a municipality can handle ordinance violations on their own. It is only suggested b/c the statute actually says that a municipality that had a procedure before this Act became effective in 1998 can still use their own procedure.

If you look at the third page, you will see language on notice to parties. This section specifically refers to notice to parties, their employees or posted notice when a party is the owner or manager of the property.

This is just like Paul's argument under the sanitation statutes. This section, which is very broad and can be used for enforcement of all City ordinances, also contemplates notice to parties, employees, agents, and property owners.

I do not believe that if notice is sent pursuant to state statute and notice is also given in another non-mandatory alternative way, that the giving the alternative notice would cause the ordinance to be in violation of the law as long as any mandatory provision under state law are followed. Additionally, if the ordinance is written so that the owner and the tenant are to receive notice, I do not believe that causes the ordinance to be defective.

I am not sure if I have answered your question. If this is missing the mark, let me know and we can discuss it again.

**Todd M. Turner**

Phone: 217-544-1144

Fax: 217-522-3173

tmtturner@sorlinglaw.com

**SORLING  
NORTHROP**  
ATTORNEYS

1 North Old State Capitol Plaza, Suite 200

P.O. Box 5131

Springfield, IL 62705

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—  
Conor Brown  
Government Affairs Director  
(815) 319-0943 cell  
(815) 231-8888 fax

Check out McHCAR's new name:  
**Heartland REALTOR® Organization** (Greater McHenry County)  
Rockford Area REALTORS®  
Belvidere Board of REALTORS®  
REALTORS® Association of Northwestern Illinois (Freeport/Galena)

**Jennifer Cacciapaglia**

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**Attachments:** scannernnw@sorlinglaw.com\_20121220\_\_043959.pdf

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**Todd M. Turner**

Phone: 217-544-1144

Fax: 217-522-3173

tnturner@sorlinglaw.com

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Conor Brown  
Government Affairs Director  
(815) 319-0943 cell  
(815) 231-8888 fax

Check out McHCAR's new name:  
**Heartland REALTOR® Organization** (Greater McHenry County)  
Rockford Area REALTORS®  
Belvidere Board of REALTORS®  
REALTORS® Association of Northwestern Illinois (Freeport/Galena)



## Illinois Compiled Statutes

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### Information maintained by the Legislative Reference Bureau

Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as Public Acts soon after they become law. For information concerning the relationship between statutes and Public Acts, refer to the Guide.

Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

## MUNICIPALITIES

### (65 ILCS 5/) Illinois Municipal Code.

(65 ILCS 5/Art. 1 Div. 2.1 heading)

#### DIVISION 2.1. ADMINISTRATIVE ADJUDICATIONS

(65 ILCS 5/1-2.1-1)

Sec. 1-2.1-1. Applicability. This Division 2.1 applies only to municipalities that are home rule units.

(Source: P.A. 90-516, eff. 1-1-98.)

(65 ILCS 5/1-2.1-2)

Sec. 1-2.1-2. Administrative adjudication of municipal code violations. Any municipality may provide by ordinance for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution. A "system of administrative adjudication" means the adjudication of any violation of a municipal ordinance, except for (i) proceedings not within the statutory or the home rule authority of municipalities; and (ii) any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code.

(Source: P.A. 90-516, eff. 1-1-98.)

(65 ILCS 5/1-2.1-3)

Sec. 1-2.1-3. Administrative adjudication procedures not exclusive. The adoption by a municipality of a system of administrative adjudication does not preclude the municipality from using other methods to enforce municipal ordinances.

(Source: P.A. 90-516, eff. 1-1-98.)

(65 ILCS 5/1-2.1-4)

Sec. 1-2.1-4. Code hearing units; powers of hearing officers.

(a) An ordinance establishing a system of administrative adjudication, pursuant to this Division, shall provide for a code hearing unit within an existing agency or as a separate agency in the municipal government. The ordinance shall

establish the jurisdiction of a code hearing unit that is consistent with this Division. The "jurisdiction" of a code hearing unit refers to the particular code violations that it may adjudicate.

(b) Adjudicatory hearings shall be presided over by hearing officers. The powers and duties of a hearing officer shall include:

(1) hearing testimony and accepting evidence that is relevant to the existence of the code violation;

(2) issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;

(3) preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing;

(4) issuing a determination, based on the evidence presented at the hearing, of whether a code violation exists. The determination shall be in writing and shall include a written finding of fact, decision, and order including the fine, penalty, or action with which the defendant must comply; and

(5) imposing penalties consistent with applicable code provisions and assessing costs upon finding a party liable for the charged violation, except, however, that in no event shall the hearing officer have authority to (i) impose a penalty of incarceration, or (ii) impose a fine in excess of \$50,000, or at the option of the municipality, such other amount not to exceed the maximum amount established by the Mandatory Arbitration System as prescribed by the Rules of the Illinois Supreme Court from time to time for the judicial circuit in which the municipality is located. The maximum monetary fine under this item (5), shall be exclusive of costs of enforcement or costs imposed to secure compliance with the municipality's ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the municipality.

(c) Prior to conducting administrative adjudication proceedings, administrative hearing officers shall have successfully completed a formal training program which includes the following:

(1) instruction on the rules of procedure of the administrative hearings which they will conduct;

(2) orientation to each subject area of the code violations that they will adjudicate;

(3) observation of administrative hearings; and

(4) participation in hypothetical cases, including ruling on evidence and issuing final orders.

In addition, every administrative hearing officer must be an attorney licensed to practice law in the State of Illinois for at least 3 years.

(d) A proceeding before a code hearing unit shall be instituted upon the filing of a written pleading by an authorized official of the municipality.

(Source: P.A. 90-516, eff. 1-1-98.)

(65 ILCS 5/1-2.1-5)

Sec. 1-2.1-5. Administrative hearing proceedings.

(a) Any ordinance establishing a system of administrative

adjudication, pursuant to this Division, shall afford parties due process of law, including notice and opportunity for hearing. Parties shall be served with process in a manner reasonably calculated to give them actual notice, including, as appropriate, personal service of process upon a party or its employees or agents; service by mail at a party's address; or notice that is posted upon the property where the violation is found when the party is the owner or manager of the property. In municipalities with a population under 3,000,000, if the notice requires the respondent to answer within a certain amount of time, the municipality must reply to the answer within the same amount of time afforded to the respondent.

(b) Parties shall be given notice of an adjudicatory hearing which includes the type and nature of the code violation to be adjudicated, the date and location of the adjudicatory hearing, the legal authority and jurisdiction under which the hearing is to be held, and the penalties for failure to appear at the hearing.

(c) Parties shall be provided with an opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine opposing witnesses. Parties may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. Hearings shall be scheduled with reasonable promptness, provided that for hearings scheduled in all non-emergency situations, if requested by the defendant, the defendant shall have at least 15 days after service of process to prepare for a hearing. For purposes of this subsection (c), "non-emergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by mail, the 15-day period shall begin to run on the day that the notice is deposited in the mail.  
(Source: P.A. 94-616, eff. 1-1-06.)

(65 ILCS 5/1-2.1-6)

Sec. 1-2.1-6. Rules of evidence shall not govern. The formal and technical rules of evidence do not apply in an adjudicatory hearing permitted under this Division. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.  
(Source: P.A. 90-516, eff. 1-1-98.)

(65 ILCS 5/1-2.1-7)

Sec. 1-2.1-7. Judicial review. Any final decision by a code hearing unit that a code violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law.  
(Source: P.A. 90-516, eff. 1-1-98.)

(65 ILCS 5/1-2.1-8)

Sec. 1-2.1-8. Enforcement of judgment.

(a) Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the municipality and may be collected

in accordance with applicable law.

(b) After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a code violation, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(c) In any case in which a defendant has failed to comply with a judgment ordering a defendant to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by a municipality to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or a hearing officer, shall be a debt due and owing the municipality and may be collected in accordance with applicable law. Prior to any expenses being fixed by a hearing officer pursuant to this subsection (c), the municipality shall provide notice to the defendant that states that the defendant shall appear at a hearing before the administrative hearing officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than 7 days from the date that notice is served. If notice is served by mail, the 7-day period shall begin to run on the date that the notice was deposited in the mail.

(d) Upon being recorded in the manner required by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the municipality under this Section. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

(e) A hearing officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within 21 days after the issuance of the order of default, if the hearing officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the municipality did not provide proper service of process. If any judgment is set aside pursuant to this subsection (e), the hearing officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the municipality as a result of the vacated default judgment.

(Source: P.A. 90-516, eff. 1-1-98.)

(65 ILCS 5/1-2.1-9)

Sec. 1-2.1-9. Impact on existing administrative adjudication systems. This Division shall not affect the validity of systems of administrative adjudication that were authorized by State law, including home rule authority, and in existence prior to the effective date of this amendatory Act of 1997.

(Source: P.A. 90-516, eff. 1-1-98.)

(65 ILCS 5/1-2.1-10)

Sec. 1-2.1-10. Impact on home rule authority. This Division shall not preempt municipalities from adopting other systems of administrative adjudication pursuant to their home

rule powers.  
(Source: P.A. 90-516, eff. 1-1-98.)

Top

**Article IV Residential Quality Support Ordinance**

**Sec. 17-49 Definitions**

(a) *Dwelling Unit* means any structure or part of a structure used as a home residence, providing living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation, including, but not limited to apartment units, boarding houses, rooming houses, emergency shelters, mobile home spaces, public housing, subsidized housing and single and multi-family dwellings.

(b) *Chronic Nuisance* means Nuisance Activity which occurs on 3 or more instances, on the same property or dwelling unit, during any 120 day period of any one or any combination of the activities listed below and as a result of any 3 separate factual events that have been independently investigated by any law enforcement agency that have resulted in an arrest, issuance of a warrant for an arrest, or issuance of a ticket or citation.

1. Disorderly conduct as defined in Section 26-1 of the Criminal Code of 1961.
2. Any felony crime or class A misdemeanor.
3. Violation of Chapter 19, Sections 19-4\_ or 19-5 of the City of Rockford Code of Ordinances controlling offensive use of property.

An act of domestic violence, dating violence, sexual assault or stalking in which the victim is the Tenant or Occupant shall not qualify as a Nuisance Activity under this ordinance.

(c) *City Official* - means the Chief of Police, the Deputy Director of Community Development, the Building Code Official, Legal Director, or any of their designees.

(d) *Nuisance Activity* - means any activities described in items 1 through 3 of subsection (b) of this Section and which the Property Manager has been notified as having occurred, provided the Owner has supplied the City of Rockford with property contact information by registering information at an on line site provided by the city. If the Owner has failed to register property contact information through an on-line registration system provided by the City of Rockford, notice of each occurrence of Nuisance Activity shall not be a condition precedent to proceeding under the terms of this ordinance.

(e) *Owner* means any person having any legal or equitable interest to title in the property in question.

- 1 (f) *Tenant* means an individual who has a legal right to occupy and control a  
2 residential unit.  
3
- 4 (g) *Occupant* means any person who resides in the property with the written consent  
5 of the Owner or is a child of the Tenant or Occupant under the age of eighteen  
6 (18).  
7
- 8 (h) *Guest* means any person on the property that is not the Owner, Tenant or  
9 Occupant.  
10
- 11 (i) *Person* means any natural person, partnership, limited partnership, corporation,  
12 limited liability company, or other entity organized under the laws of the any state  
13 of the United States.  
14
- 15 (j) *Permitted* means to knowingly suffer, allow, consent to, acquiesce or expressly  
16 assent or agree to the doing of an act.  
17
- 18 (k) *Property Manager* means a natural person representing himself, a partnership,  
19 corporation, unincorporated association, limited partnership, trust or any other  
20 entity, who has been designated by an Owner, to whom notification of incidents  
21 of Nuisance Activity or code violations may be made, and who has authority to  
22 resolve issues identified within said notice. An Owner may designate himself as  
23 Property Manager.
- 24 (l) *Housing Board* is an appointed committee whose purpose is to evaluate situations  
25 where Chronic Nuisance Activity is occurring and recommend what action is  
26 necessary to abate the Nuisance Activity. The Housing Board consists of  
27 community volunteers who reside in the City of Rockford, are appointed by the  
28 Mayor and approved by a majority vote of the Rockford City Council to staggered  
29 3 year terms. The Housing Board shall establish its own procedures and may, by  
30 a majority vote of the board members, appoint a licensed attorney who resides in  
31 the City of Rockford to volunteer as legal counsel to the board. Legal counsel  
32 shall be advisory only and not a voting member of the board. Housing Board  
33 members shall not be employed by any unit of government or any housing  
34 authority. The board members shall be comprised of the following:
- 35 1. A person who is an active member of a neighborhood association while  
36 serving on the Housing Board;
- 37 2. A person who is an active member of the Rockford Apartment Association  
38 while serving on the Housing Board is a current Owner and has a minimum of 5  
39 years of experience as an Owner;
- 40 3. A person who is an Illinois licensed real estate broker, experienced in  
41 residential rental investments, and who is an active member of the Rockford Area  
42 Association of Realtors while serving on the Housing Board;

1 4. A person who has leased his residence in the City of Rockford for 2  
2 consecutive years preceding his appointment and continues to lease his residence  
3 while serving on the Housing Board; and

4 5. A citizen at large.  
5

6 **Sec. 17-50 Contact Information required**

7 Except as otherwise provided in this article, it shall be unlawful and a violation of this section for  
8 any Dwelling Unit, in whole or in part, to be occupied, rented, or leased, unless the Owner has  
9 provided property contact information with the city of Rockford. Except as otherwise provided  
10 herein, no fee shall be imposed on an Owner for providing contact information.

11 (a) All Owner's shall register each residential rental property with the City of Rockford  
12 \_\_\_\_\_ Department. Such registration shall be made on line at  
13 \_\_\_\_\_ with a software program provided by the City of  
14 Rockford. The information registered must include:  
15

- 16 1. Identify the location of the property by common address and Property  
17 Identification Number (PIN);
- 18 2. The number of rental units in the structure;
- 19 3. The name, address, e-mail address and telephone number of each Owner  
20 of the structure. For purpose of this section, a contract buyer is not deemed the  
21 Owner of the property unless the contract or a memorandum of contract has been  
22 recorded;
- 23 4. The name, address, e-mail address and telephone(s) numbers of the  
24 Property Manager or custodian of the property who lives within one hundred and  
25 twenty (120) miles of the city of Rockford, unless at least one Owner of the  
26 structure satisfies this qualification;
- 27 5. The physical address of each Owner or their registered agent for service of  
28 process. In the case of a trust or corporation, the name and contact information of  
29 a natural person that is the trustee/executor of the trust or corporation will suffice;
- 30 6. An optional field of the names of each Tenant will be provided. An  
31 Owner shall not provide the names of each Tenant unless the terms of their lease  
32 stipulate that the information may be disclosed.

33  
34 (b) Unless otherwise specifically provided herein, registration of property contact  
35 information shall be renewed every two years. Property contact information  
36 registration renewals shall occur between February 1<sup>st</sup> and March 1<sup>st</sup> of each calendar  
37 year  
38

39 (c) During each two-year registration period if there is any change in the information  
40 provided to the city on the form for registration of property contact information, the  
41 Owner shall update information on line within thirty (30) calendar days.  
42



1 (d) The City Official shall make a good faith effort to utilize property contact information  
2 to inform an Owner or his representative of calls for services by police or for  
3 communication of code violations within seven (7) business days.  
4

5 (e) When a Tenant, Occupant or a Guest is responsible for any property standard  
6 ordinance violation or Nuisance Activity at the property, the City Official shall also  
7 make a good faith effort to contact the Tenant and/or Occupant, for the purpose of  
8 including them along with the Owner in any proceedings before the Housing Board,  
9 in a civil action resulting from a failure to comply with this ordinance, or in any  
10 municipal code enforcement hearing for code violations which are caused by the  
11 Tenant and/or Occupant. If a Tenant's identity has not been disclosed in the property  
12 contact information then an Owner or his representative may notify the city in writing  
13 of the Tenant's identity.  
14

15 (f) Failure to comply with the requirements of this ordinance to provide property contact  
16 information for a residential rental structure within thirty (30) calendar days of the  
17 deadline as provided by the ordinance shall result in a fine of fifty (\$50.00) dollars.  
18

19 Failure to comply with the requirements of this ordinance to provide contact  
20 information for a residential rental structure within thirty-one (31) to sixty (60)  
21 calendar days of the deadline as provided by the ordinance shall result in a fine of one  
22 hundred and fifty (\$150.00) dollars.  
23

24 Failure to comply with the requirements of this ordinance to provide contact  
25 information for a residential rental structure within sixty-one (61) calendar days of the  
26 deadline as provided by the ordinance shall result in a fine of fifty (\$50.00) dollars to  
27 seven hundred and fifty (\$750.00) dollars per day until the Owner is in compliance.  
28

29 **Sec. 17-51 Procedure for addressing Chronic Nuisance Activity.**  
30

31 (a) After independent review of any police reports and determination by the City  
32 Official that the activity described therein as occurring upon the property meets  
33 the definition of a Chronic Nuisance and that the Owner, Tenant and/or Occupant  
34 Permitted the Nuisance Activity to continue, the City Official shall refer the case  
35 to the Housing Board which may require that the Owner thereof or its Property  
36 Manager, the Tenant and/or the Occupant meet with the Housing Board to discuss  
37 the Nuisance Activity and steps the Owner, the Tenant and/or Occupant can take  
38 to mitigate or abate the activity in accordance with the following procedure:  
39

40 The City Official shall notify the Owner or their Property Manager; in writing that  
41 activity at the property has met the status of a Chronic Nuisance. Such notice  
42 shall be provided by either personal delivery or by certified mail or by other  
43 reputable courier service that provides written confirmation of delivery, addressed  
44 to the Owner or his Property Manager. Notice shall also be sent in the same  
45 manner to the Tenant(s) and Occupant(s) of the property if known to the city. The  
46 notice shall contain the following information:

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1. The street address or a legal description sufficient for identification of the property where the Nuisance Activity has occurred.
2. A statement by the City Official with a detailed description of the offenses which meet the standard of Nuisance Activity and that the Nuisance Activity has become a Chronic Nuisance as defined by this ordinance.
3. A demand that the Owner or Property Manager, Tenant and/or Occupant respond and meet with the City Official within 10 business days of confirmation of delivery of notice. Refusal of receipt of notice shall be deemed receipt of the notice for the purposes of this Section.

(b) At the meeting between the Housing Board and the Owner, Property Manager, the Tenant and/or the Occupant, the Housing Board may request that Owner implement a reasonable abatement plan designed to alleviate and prevent future occurrences of the Nuisance Activity upon the property. The abatement plan shall be limited to the following:

1. A requirement that the Owner perform necessary maintenance and repair of existing access, security and lighting, limiting access to common areas through the installation of locks, graffiti removal and the posting of "No Trespass" signs;
2. Banning individuals who are not Tenants of the property who engage in Nuisance Activity in accordance with 735 ILCS 5/9-106.2 (g);
3. Offer municipal assistance with eviction proceedings;
4. Requiring that the Owner implement Tenant screening policies and procedures and attend professional property management training.

The abatement plan shall be reasonable under the circumstances in its objective, cost and scope, and shall be commenced and fully implemented within 30 days of the meeting with the Housing Board or such longer period to be fully implemented if not practically feasible to do so within 30 days.

(c) If the Nuisance Activity has or is being conducted by a Tenant or an Occupant of the property or a Guest then the Tenant and/or Occupant shall be advised of their obligation to maintain the premises in compliance with the law listed in section 17-49 (b) of this ordinance and that failure to do so may result in the following actions: termination of the Tenant's legal right of control of the property and/or the imposition of fines against the Tenant or an Occupant.

(d) In the event the notified Tenant and/or Occupant fails to respond and meet with the Housing Board or the Tenant and/or Occupant engaged in or permits the

1 continuation of the Nuisance Activity then the City Official may inform the  
2 Owner that failure to take appropriate action to rescind the Tenant and Occupants'  
3 legal right of control of the property may be considered as the Owner permitting  
4 the continuance of the Nuisance Activity.  
5

6 (e) If Owner files suit to regain control of the property based on information provided  
7 by the City Official then the City Official shall assist by reasonably cooperating  
8 with the Owner, including, but not limited to, providing law enforcement officers  
9 or any other municipal or county employee as witnesses regarding the Nuisance  
10 Activity.  
11

12 (f) If, after complying with the procedures of Section 17-51 (b):  
13

- 14 1. Between 60 and 365 days after the meeting, the City Official receives a report  
15 documenting the occurrence of a subsequent Nuisance Activity upon the  
16 property which was Permitted by the Owner, or  
17
- 18 2. The Owner, within 30 days of the meeting or such other reasonable amount of  
19 time under the circumstances, fails to cause the implementation of a  
20 reasonable abatement plan as requested by the City Official, or  
21
- 22 3. The Owner or Owner's representative fails to respond and meet with the City  
23 Official within the 10 business day period without good cause,  
24

25 then the City of Rockford may seek that the activity be declared a Chronic  
26 Nuisance in a civil action in a court of proper jurisdiction.  
27

28 (g) A notified party may request a separate hearing in front of the Housing Board if  
29 they have concerns with possible criminal activity on the part of another party and  
30 there is a credible belief that the information they provide may threaten their life  
31 or safety. The information gathered shall be done so with the participation of the  
32 City of Rockford Police Department.  
33

34 (h) When an Owner or the Owner's representative responds and meets with the  
35 Housing Board as required above, no statements made in connection with the  
36 furnishing of that response or in a meeting shall constitute or be used as an  
37 admission that any Nuisance Activity has or is occurring. This subsection does  
38 not require the exclusion of any other evidence which is otherwise admissible and  
39 offered for any other purpose than an admission by the Owner or the Owner's  
40 representative.  
41

42 **Sec 17- 52 Commencement of action; burden of proof; determination of a Chronic**  
43 **Nuisance; defenses:**  
44

45 (a) The City of Rockford, in a civil action in a court of proper jurisdiction, may seek a  
46 declaration that the Owner, Tenant or Occupant of a property has Permitted a Chronic

1 Nuisance under this Ordinance. The City shall have the initial burden of showing by  
2 a preponderance of the evidence that:

- 3  
4 1. the activity at the property meets the standard of a Chronic Nuisance as set  
5 forth is Section 17-49 (b); and  
6  
7 2. the procedures of Section 17-51 were followed by the City Official and  
8 Housing Board; and  
9  
10 3. either the Owner, or the Property Manager or Tenant failed to respond to  
11 notice served pursuant to Section 17-51 (a) (1) or the Owner failed to  
12 implement an abatement plan pursuant to Section 17-51 (b).  
13

14 (b) Upon the court determining that the elements of subsection (a) of this Section  
15 have been met, then the court may, after the consideration of any defenses set  
16 forth below and all other facts and circumstances deemed relevant by the court,  
17 declare that the Owner, Tenant, and/or Occupant of the property Permitted a  
18 Chronic Nuisance.  
19

20 (c) It is a defense for the Owner, Tenant and/or Occupant of the property to an action  
21 seeking the declaration of the activity as a Chronic Nuisance that the Owner,  
22 Tenant and/or Occupant of the property, at the time in question could not, in spite  
23 of the exercise of reasonable care and diligence, prevent a third party from  
24 engaging in the conduct constituting the subsequent occurrence of Nuisance  
25 Activity.  
26

27 (d) The following shall also be defenses for an Owner:  
28

- 29 1. If prior to the Owner being served process of the civil action, the Owner or  
30 the Owner's representative notified a law enforcement agency of  
31 suspected Nuisance Activity occurring on the property; or  
32  
33 2. The Owner or Property Manager has begun legal proceedings to regain  
34 control of the property from a Tenant or an Occupant; or  
35  
36 3. That the Nuisance Activity was conducted by a person who has been  
37 banned from the property; or  
38  
39 4. An Owner has made a good faith effort to implement the reasonable  
40 abatement plan requested by the Housing Board, pursuant to Section 17-  
41 51 (b) but the Nuisance Activity has not been abated; or  
42  
43 5. An Owner, in trying to abate the Nuisance Activity attempted legal action  
44 to regain control of the property from a Tenant or an Occupant but was  
45 denied by a court; or  
46

1                   6. That the Owner is the victim of Nuisance Activity that threatens his life or  
2                   safety.  
3

4                   (e) The following shall also be a defense for a Tenant or Occupant:  
5

6                   1. If prior to the Tenant or an Occupant being served process of the civil  
7                   action, the Tenant or Occupant notified a law enforcement agency of  
8                   suspected Nuisance Activity occurring on the property; or  
9

10                  2. That the Nuisance Activity was conducted by a person who has been  
11                  banned from the property; or  
12

13                  3. The Tenant and/or Occupant of the property are/is a victim of Nuisance  
14                  Activity that threatens their/his life or safety.  
15

16                  **Sec. 17-53       Penalties**  
17

18                  (a) If a court determines that a Chronic Nuisance, as defined in Section 17-49 (b),  
19                  exists at the property, the following abatement of penalties may be imposed by the  
20                  court upon the Owner or the Tenant:  
21

22                  1            A civil fine not to exceed \$750.00 per day or an injunction requiring the  
23                  abatement of the Nuisance Activity that resulted in the activity being  
24                  declared a Chronic Nuisance by the court.  
25

26                  2.           Notwithstanding clauses (a) 1 of this Section, and whether or not it is a  
27                  first or subsequent offense, if the court finds that an Owner or a Tenant  
28                  failed to respond and meet with the Housing Board within the time  
29                  prescribed without good cause, or if the court finds that an Owner or a  
30                  Tenant willfully failed to implement of reasonable abatement plan  
31                  requested by the Housing Board, the court may impose a civil fine or an  
32                  injunction prohibiting the occupancy of the property where the Nuisance  
33                  Activity reached the status of a Chronic Nuisance or in the case of a multi-  
34                  unit property, any dwelling unit thereof in question, for a period of up to 6  
35                  months. In the event occupancy is by lease agreement then the injunction  
36                  prohibiting occupancy shall begin upon expiration of the current lease  
37                  term.  
38

39                  3.           Any fines imposed on the Owner and remaining unpaid after 60 days of  
40                  imposition of said fines shall attach to the property where the Nuisance  
41                  Activity occurred as a lien as permitted.  
42

43                  (b) If the court issues an injunction requiring the abatement of Nuisance Activity by a  
44                  date certain set forth in the order for injunctive relief, the court, in its discretion,  
45                  may impose a further fine not to exceed \$750 per day for each day the Nuisance  
46                  Activity persists after the date certain,

1  
2 (c) In imposing any penalty, the court shall consider the following factors, and shall  
3 cite those found applicable:

- 4  
5 1. The action or lack of action taken by the Owner or Tenant to abate the  
6 Nuisance Activity upon the property; and  
7  
8 2. Whether the Nuisance Activity upon the property was repeated or  
9 continuous; and  
10  
11 3. The magnitude of gravity of the Nuisance Activity; and  
12  
13 4. The cooperation of the Owner or Property Manager with the City Official  
14 and Housing Board; and  
15  
16 5. The cost to the City of Rockford for investigating and correcting or  
17 attempting to correct the Nuisance Activity; and  
18  
19 6. Whether or not the Nuisance Activity could have been prevented by the  
20 Owner or Property Manager exercising reasonable care and under the  
21 circumstances.  
22

23 **Sec. 17-54 Enforcement**

24  
25 The \_\_\_\_\_ Department shall have primary responsibility for enforcing  
26 this Chapter. All residential rental property must be brought into compliance with the terms of  
27 this Chapter by \_\_\_\_\_.

## Article IV Chronic Nuisance Ordinance

### Sec. 17-49 Definitions

- (a) *Dwelling Unit* means any structure or part of a structure used as a home residence, providing living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation, including, but not limited to apartment units, boarding houses, rooming houses, emergency shelters, mobile home spaces, public housing, subsidized housing and single and multi-family dwellings.
- (b) *Chronic Nuisance* means nuisance activity which occurs on 3 or more instances, on the same property or dwelling unit, during any 120 day period of any one or any combination of the activities listed below and as a result of any 3 separate factual events that have been independently investigated by any law enforcement agency that have resulted in an arrest, issuance of a warrant for an arrest, or issuance of a ticket or citation.
1. Disorderly conduct as defined in Section 26-1 of the Criminal Code of 1961.
  2. Any felony crime or class A misdemeanor.
  3. Violation of Chapter 19, Sections 19-4 or 19-5 of the City of Rockford Code of Ordinances controlling offensive use of property.
- An act of domestic violence, dating violence, sexual assault or stalking in which the victim is the Tenant or Occupant shall not qualify as a Nuisance Activity under this ordinance.
- (c) *City Official* - means the Chief of Police, the Deputy Director of Community Development, the Building Code Official, Legal Director, or any of their designees.
- (d) *Housing Board* is a an appointed committee whose purpose is to, when called upon by the City Official, provide a private mediation service and evaluate situations where Chronic Nuisance Activity is occurring and recommend what action is necessary to abate the Nuisance Activity. The Housing Board shall be an advisory committee and consists of community volunteers who reside in the City of Rockford, are appointed by the Mayor and approved by a majority vote of the Rockford City Council to staggered 3 year terms. The Housing Board shall establish its own procedures and may, by a majority vote of the board members, appoint a licensed attorney who resides in the City of Rockford to volunteer as legal counsel to the board. Legal counsel shall be advisory only and not a voting member of the board. The Rockford Apartment Association and the Rockford Area Association of Realtors shall be solely responsible for any and all staffing

needs and costs associated with the operation of the Board, as well as for providing meeting notices to interested parties and persons who may come before the Board. The city Official shall not be required to utilize the private mediation service provided by the Housing Board prior to commencing the procedure for addressing chronic nuisance activity in Section 17-51 of this Article. Housing Board members shall not be employed by any unit of government or any housing authority. The board members shall be comprised of the following:

1. A person who is an active member of a neighborhood association while serving on the Housing Board;
2. A person who is an active member of the Rockford Apartment Association while serving on the Housing Board is a current Owner and has a minimum of 5 years of experience as an Owner;
3. A person who is an Illinois licensed real estate broker, experienced in residential rental investments, and who is an active member of the Rockford Area Association of Realtors while serving on the Housing Board;
4. A person who has leased his residence in the City of Rockford for 2 consecutive years preceding his appointment and continues to lease his residence while serving on the Housing Board; and
5. A citizen at large.

- (e) *Nuisance activity* - means any activities described in items 1 through 3 of subsection (b) of this Section and which property owner has been notified as having occurred, provided owner has supplied the City of Rockford with contact information by registering information at an on line site provided by the city. If owner has failed to register contact information through an on-line registration system provided by the City of Rockford, notice to the owner shall not be a condition precedent to proceeding under the terms of this ordinance.
- (f) *Occupant* means any person with a legal right to reside in the property.
- (g) *Owner* means any person having any legal or equitable interest to title in the property in question.
- (h) *Person* means any natural person, partnership, limited partnership, corporation, limited liability company, or other entity organized under the laws of the any state of the United States.
- (i) *Permitted* means to knowingly suffer, allow, consent to, acquiesce or expressly assent or agree to the doing of an act.



- (j) *Property Manager* means a natural person representing himself, a partnership, corporation, unincorporated association, limited partnership, trust or any other entity, who has been designated by an Owner, to whom notification of incidents of nuisance activity or code violations may be made, and who has authority to resolve issues identified within said notice. An Owner may designate himself as Property Manager.

**Sec. 17-50 Contact Information required**

Except as otherwise provided in this article, it shall be unlawful and a violation of this section for any residential rental structure, in whole or in part, to be occupied, rented, or leased, unless the Rental Property Owner has provided property contact information with the city of Rockford. Except as otherwise provided herein, no fee shall be imposed on an Owner for providing contact information.

- a. All landlords shall register each residential rental property with the City of Rockford \_\_\_\_\_ Department. Such registration shall be made on line at \_\_\_\_\_ with a software program provided by the City of Rockford. The information registered must include:
1. Identify the location of the property by common address and Property Identification Number (PIN);
  2. The number of rental units in the structure;
  3. The name, address, e-mail address and telephone of each owner of the structure. For purpose of this section, a contract buyer is not deemed the owner of the property;
  4. The name, address, e-mail address and 24-hour telephone(s) of the property manager or custodian of the property who lives within one hundred and twenty (120) miles of the city of Rockford, unless at least one owner of the structure satisfies this qualification;
  5. The physical address of each Owner or their registered agent for service of process. In the case of a trust or corporation, the name and contact information of a natural person that is the trustee/executor of the trust or corporation will suffice;
  6. An optional field of the names of each Tenant will be provided. An Owner shall not provide the names of each Tenant unless the terms of their lease stipulate that the information may be disclosed. ;
  7. Such other information as the City may reasonably require.
- b. Unless otherwise specifically provided herein, registration of property contact information shall be renewed every two years. Property Contact information registration renewals shall occur between February 1<sup>st</sup> and March 1<sup>st</sup> of each calendar year

c. During each two-year registration period if there is any change in the information provided to the city on the form for registration of property contact information, the Rental Property Owner shall update information on line within thirty (30) calendar days.

d. Failure to comply with the requirements of this ordinance to provide property contact information for a residential rental structure within thirty (30) calendar days of the deadline as provided by the ordinance shall result in a fine of fifty (\$50.00) dollars.

Failure to comply with the requirements of this ordinance to provide contact information for a residential rental structure within thirty-one (31) to sixty (60) calendar days of the deadline as provided by the ordinance shall result in a fine of one hundred and fifty (\$150.00) dollars.

Failure to comply with the requirements of this ordinance to provide contact information for a residential rental structure within sixty-one (61) calendar days of the deadline as provided by the ordinance shall result in a fine of fifty (\$50.00) dollars to seven hundred and fifty (\$750) dollars per day until the Rental Property Owner is in compliance.

**Sec. 17-51 Procedure for addressing chronic nuisance activity.**

(a) After independent review of any police reports and determination by the city official that the activity described therein as occurring upon the property meets the definition of a chronic nuisance and that the owner or occupant permitted the nuisance activity to continue, the city official may require that the owner thereof or its property manager and the occupant meet with the city official to discuss the Nuisance activity and steps the owner and occupant can take to mitigate or abate the activity in accordance with the following procedure:

1 The city official shall notify the owner or their property manager who the owner has registered as having authority to represent the owner in writing that activity at the property has met the status of a chronic nuisance. Such notice shall be provided by either personal delivery or by certified mail or by other reputable courier service that provides written confirmation of delivery, addressed to the owner or the owner's property manager. The city official shall also send notice by first class mail or other reputable courier service that provides written confirmation of delivery to the occupant of the property, as registered by the owner. The notice shall contain the following information:

(i) The street address or a legal description sufficient for identification of the property where the nuisance activity has occurred.

(ii) A statement by the city official with a detailed description of the offenses which meet the standard of nuisance activity and that the

nuisance activity has become a chronic nuisance as defined by this ordinance

(iii) Demand that the owner or property manager and occupant when the property is not owner occupied respond and meet with the city official within 10 business days of confirmation of delivery of notice. Refusal of receipt of notice by the owner or occupant shall be deemed receipt of the notice for the purposes of this Section.

(b) At the meeting between the city official and the owner or property manager and the occupant, the city official may request that the owner and occupant implement a reasonable abatement plan designed to alleviate and prevent future occurrences of the nuisance activity upon the property. The abatement plan shall include, but shall not be limited to any of the following

1. A requirement that the owner perform necessary maintenance and repair of existing access, security and lighting, limiting access to common areas through the installation of locks, graffiti removal and the posting of "No Trespass" signs;
2. Banning individuals who are not tenants of the property who engage in nuisance activity;
3. Initiating eviction proceedings with municipal assistance;
4. Requiring that the owner implement tenant screening policies and procedures and attend professional property management training.

The abatement plan shall be reasonable under the circumstances in its objective, cost and scope, and shall be commenced and fully implemented within 30 days of the meeting with the city official or such longer period to be fully implemented if not practically feasible to do so within 30 days.

- (c) If the nuisance activity has or is being conducted by an occupant of the property or a guest of the occupant then the occupant shall be advised of their obligation to maintain the premises in compliance with the laws listed in section 17-49 (b) of this ordinance and that failure to do so may result in the following actions: termination of the occupant's legal right of control of the property or the imposition of fines against the occupant.
- (d). In the event the occupant fails to respond and meet with the city official or the occupant permits the continuation of the nuisance activity then the city official may inform the owner that owner's failure to take appropriate action to rescind occupants legal right of control of the property shall be considered as the owner permitting the continuance of the nuisance activity.

- (e). If owner files suit to regain control of the property based on information provided by the city official then the city official shall assist by reasonably cooperating with the owner, including, but not limited to, providing law enforcement officers or any other municipal or county employee as witnesses regarding the nuisance activity.
- (f) If, after complying with the procedures of Section 17-51 (b):
  1. Between 30 and 365 days after the meeting, the city official receives a report documenting the occurrence of a subsequent nuisance activity upon the property which was permitted by the owner, or
  2. The owner, within 30 days of the meeting or such other reasonable amount of time under the circumstances, fails to cause the implementation of a reasonable abatement plan as requested by the city official, or
  3. The owner fails to respond and meet with the city official within the 10 business day period without good cause, then the City of Rockford may seek that the activity be declared a chronic nuisance in a civil action in a court of proper jurisdiction.

When an owner or the owner's representative responds and meets with the city official as required above, no statements made in connection with the furnishing of that response or in a meeting shall constitute or be used as an admission that any nuisance activity has or is occurring. This subsection does not require the exclusion of any other evidence which is otherwise admissible and offered for any other purpose than an admission by the owner or the owner's representative.

**Sec 17- 52 Commencement of action; burden of proof; determination of a chronic nuisance; defenses:**

- (a) The City of Rockford, in a civil action in a court of proper jurisdiction, may seek a declaration that the owner or occupant of a property has permitted a chronic nuisance under this Ordinance. The City shall have the initial burden of showing by a preponderance of the evidence that:
  - 1 the activity at the property meets the standard of a chronic nuisance as set forth in Section 17-49 (b); and
  - 2 the procedures of Section 17-51 were followed by the city official; and
  - 3 either the owner or the property manager failed to respond to notice served pursuant to Section 17-51 (a) (1) or failed to implement an abatement plan pursuant to Section 17-51 (b).

- (b) Upon the court determining that the elements of subsection (a) of this Section have been met, then the court may, after the consideration of any defenses set forth below and all other facts and circumstances deemed relevant by the court, declare that the owner or occupant of the property permitted a chronic nuisance.
- (c) It is a defense for the owner or occupant of the property to an action seeking the declaration of the activity as a chronic nuisance that the owner or occupant of the property, at the time in question could not, in spite of the exercise of reasonable care and diligence, prevent a third party from engaging in the conduct constituting the subsequent occurrence of nuisance activity. The following shall also be defenses for an owner:
1. If prior to the owner being served process of the civil action, the owner or the owner's representative notified a law enforcement agency of suspected nuisance activity occurring on the property; or
  2. The owner or property manager has begun legal proceedings to regain control of the property from an occupant; or
  3. That the nuisance activity was conducted by a person who has been banned from the property; or
  4. An owner has made a good faith effort to implement the reasonable abatement plan requested by the City Official, pursuant to Section 17-51 (b) but the nuisance activity has not been abated; or
  5. An owner, in trying to abate the nuisance activity attempted legal action to regain control of the property from an occupant but was denied by a court.

**Sec. 17-53 Penalties.**

(a) If a court determines that a chronic nuisance, as defined in Section 17-49 (b), exists at the property, the following abatement of penalties may be imposed by the court upon the owner or the occupant:

1. A civil fine not to exceed \$750.00 per day or an injunction requiring the abatement of the nuisance activity that resulted in the activity being declared a chronic nuisance by the court.
2. Notwithstanding clauses (a) 1 of this Section, and whether or not it is a first or subsequent offense, if the court finds that an owner failed to respond and meet with the city official within the time prescribed without good cause, or if the court finds that an owner willfully failed to implement of reasonable abatement plan requested by the city official, the court may impose a civil fine or an injunction prohibiting the occupancy of the property where the nuisance activity reached the status of a chronic nuisance or in the case of a multi-unit property, any dwelling unit thereof in question, for a period of up to 6 months. In the event occupancy is by lease agreement then the injunction prohibiting occupancy shall begin upon expiration of the current lease term.

3. Any fines imposed on the owner and remaining unpaid after 60 days of imposition of said fines shall attach to the property where the nuisance activity occurred as a lien.
- (b) If the court issues an injunction requiring the abatement of nuisance activity by a date certain set forth in the order for injunctive relief, the court, in its discretion, may impose a further fine not to exceed \$750 per day for each day the nuisance activity persists after the date certain,
  - (c) In imposing any penalty, the court shall consider the following factors, and shall cite those found applicable:
    1. The action or lack of action taken by the owner or occupant to abate the nuisance activity upon the property; and
    2. Whether the nuisance activity upon the property was repeated or continuous; and
    3. The magnitude of gravity of the nuisance activity; and
    4. The cooperation of the owner or property manager with the city official; and
    5. The cost to the City of Rockford for investigating and correcting or attempting to correct the nuisance activity; and
    6. Whether or not the nuisance activity could have been prevented by the owner or property manager exercising reasonable care and under the circumstances.

#### Sec. 17-54. Enforcement

The \_\_\_\_\_ Department shall have primary responsibility for enforcing this Chapter. All leases and rental agreements in existence on the effective date of this article shall be brought into compliance with the terms of this article upon renewal of a lease or issuance of a new lease. All residential rental property must be brought into compliance with the terms of this Chapter by \_\_\_\_\_.