

## Chapter 114

### NUISANCE PROPERTIES

**[HISTORY: Adopted by the Mayor and Council of the City of Seat Pleasant 6-14-2010 by Ord. No. O-10-11. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Brush, grass and trees — See Ch. 59.  
Building construction — See Ch. 63.  
Unfit buildings; property maintenance — See Ch. 67.  
Fire prevention — See Ch. 88.  
Health and sanitation — See Ch. 101.  
Solid waste — See Ch. 129.  
Storage of vehicles — See Ch. 154.

#### § 114-1. Purpose.

- A. Chronic nuisance properties present grave health, safety and welfare concerns when the property owners or persons in charge of such properties have failed to take corrective action to abate nuisance conditions on such properties. Chronic nuisance properties have a tremendous negative impact upon the quality of life, safety and health of the neighborhoods where they are located. This chapter is enacted to remedy nuisance activities that repeatedly occur or exist at chronic nuisance properties by providing a process for abatement to supplement remedies available under other state or local laws and may be used in conjunction with such other laws.
- B. Also, chronic nuisance properties are a financial burden to the City by the repeated calls for service to the properties because of the nuisance activities that repeatedly occur or exist on such properties. This chapter is a means to ameliorate those conditions and hold responsible the owners or persons in charge of such properties.

#### § 114-2. Definitions.

For purposes of this chapter, the following words or phrases shall have the meanings prescribed below:

ABATE — To repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the applicable City Administrator or designee determines is necessary in the interest of the general health, safety and welfare of the community, including but not limited to:

- A. Restricting or limiting noise, loitering, parking or access to the property, including posting the property with signs indicating such restrictions;
- B. Limiting the hours of operation of a business;
- C. Closing the property for not less than 10 days nor more than six months;

- D. Entering premises for purposes of removing or compelling the removal or destruction of the structure, thing, substance, condition or property constituting a nuisance;
- E. Filing a civil complaint in a court of competent jurisdiction.

**CHRONIC NUISANCE PROPERTY** — Property on which three or more nuisance activities occur within any thirty-day period, or five or more separate incidents listed below within any sixty-day period, at least one of which separate incidents must have resulted in a citation or arrest.

**CONTROL** — The ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property.

**DRUG-RELATED ACTIVITY** — Any unlawful activity at a property which consists of the manufacture, delivery, sale, storage, possession, or giving away of any controlled substance.

**LANDLORD** — The owner, lessor, or sublesor of the dwelling unit or the property of which it is a part, and, in addition, means any person designated as a representative of the landlord.

**NUISANCE ACTIVITY** — Includes:

- A. A nuisance as defined by state law or local ordinance occurring around or near the property; or
- B. Any of the following activities, behaviors or criminal conduct:
  - (1) Stalking;
  - (2) Discharge of a firearm in violation;
  - (3) Minor in possession of alcohol;
  - (4) Public urination and indecent exposure;
  - (5) Endangering the welfare of a minor;
  - (6) Criminal mischief;
  - (7) Harassment;
  - (8) Failure to disperse;
  - (9) Disorderly conduct;
  - (10) Assault, including domestic violence assault;
  - (11) Reckless endangerment;
  - (12) Prostitution;
  - (13) Patronizing a prostitute;
  - (14) Begging;

- (15) Public consumption of alcohol;
- (16) Disorderly house, as prohibited by § 10-202 of the Criminal Law Article of the Maryland Annotated Code;
- (17) Indecent exposure;
- (18) Lewd conduct;
- (19) Any firearms violation listed in Title 4 of the Criminal Law Article of the Maryland Annotated Code;
- (20) Noise;
- (21) Loitering for the purpose of engaging in drug-related activity;
- (22) Drug-related activity;
- (23) Gang, as prohibited by Title 9 of the Criminal Law Article of the Maryland Annotated Code; and
- (24) Any attempt to commit and/or conspiracy to commit any of the above activities, behaviors or conduct.

**OWNER** — Any person having any interest in the real estate in question as indicated in the records of the Maryland Department of Assessments and Taxation, or who establishes under this chapter his/her ownership interest therein.

**PERSON** — A natural person, joint venture, partnership, association, club, company, corporation, business trust, organization, limited liability company, or the manager, lessee, agent, officer or employee of any of them.

**PERSON ASSOCIATED WITH A PROPERTY** — Any person who, on the occasion of a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or a person present on that property, including, without limitation, any officer, director, customer, agent, employee, or any independent contractor of that property, or a person in charge of or owner of that property.

**PERSON IN CHARGE OF A PROPERTY** — Any person, in actual or constructive possession of a property, including but not limited to an owner, occupant, agent, or property manager of a property under his or her control.

**PREMISES and PROPERTY** — May be used by this chapter interchangeably and means any building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof.

**RENTAL UNIT** — Any structure or that part of a structure, including but not limited to a single-family home, room or apartment, which is rented to another and used as a home, residence, or sleeping place by one or more persons.

### **§ 114-3. Violations and penalties.**

- A. Any property within the City of Seat Pleasant which is a chronic nuisance property is in violation of this chapter and subject to its remedies.

- B. Any owner and person in charge who permits property to be a chronic nuisance property shall be in violation of this chapter and subject to its remedies and penalties.
- C. A failure of the owner or person in charge to provide for a discontinuance of nuisance activity on a property in accordance with § 114-4 is a municipal infraction, subject to a penalty of \$100 for each initial violation and \$100 for each repeat violation or each day that a violation continues.

**§ 114-4. Procedure.**

- A. If three or more nuisance activities occur within a sixty-day period on a property, the Chief of Police, or his designee, shall notify the property owner at the address shown on the records of the Maryland Department of Assessments and Taxation and the person in charge of the property in writing that the property is in danger of being declared a chronic nuisance property.
- B. The notice shall contain:
  - (1) The street address or a legal description sufficient for identification of the property;
  - (2) A concise description of the nuisance activities that exist or that have occurred on the property;
  - (3) A demand that the owner or person in charge respond to the Chief or his designee within 10 days of service of the notice to discuss the nuisance activities and create a plan to abate the chronic nuisance;
  - (4) Offer the owner and person in charge an opportunity to arrange for the discontinuance of the nuisance activities giving rise to the violation; and
  - (5) A statement describing that if the nuisance activities are not discontinued and legal action is sought, the nuisance activities would be subject to abatement, the property could be subject to closure, and the violation would constitute a municipal infraction commencing from the date of the notice.
- C. The notice shall be either:
  - (1) Personally served; or
  - (2) Delivered by first class mail to the owner and person in charge of the property.
- D. If the owner or person in charge fails to respond to the notice within the time prescribed, the Chief of Police or his designee shall post such notice at the property and issue the owner and person in charge a municipal infraction citation, to be served as required by Article 23A, § 3, of the Maryland Annotated Code.
- E. If the owner or person in charge responds as required by the notice and agrees to provide for the discontinuance of the nuisance activity, the Chief of Police, or his designee, and the person in charge and/or property owner, may work out an agreed

upon course of action which would result in the discontinuance of the nuisance activity. If an agreed course of action does not result in the discontinuance of the nuisance activity or if no agreement is reached, the Chief of Police or his designee may issue the owner and person in charge a municipal infraction citation, and the matter shall be forwarded to the City Administrator for possible additional enforcement action, including referral of the matter to the City Attorney to initiate a civil action for injunctive and other relief.

- F. It is a defense to a municipal infraction citation issued under this section that the owner or person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become a chronic nuisance property or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is a chronic nuisance property.

**§ 114-5. Commencement of action; enforcement.**

- A. Once the matter is referred to the City Attorney, the City Attorney shall promptly review and make a recommendation to the City Administrator whether to initiate an action for injunctive or other relief to abate the nuisance activities at the property and to obtain for the City such damages as may be appropriate. The City Administrator, in consultation with the City Council, shall determine whether to authorize the City Attorney to initiate legal action.
- B. If the court determines that the property is a chronic nuisance property, the court shall also assess costs against the person in charge and/or owner in the amount it costs the City to abate, or attempt to abate, the nuisance activity.
- C. If the court determines that the property is a chronic nuisance property, the court may order the property closed and secured against all unauthorized access, use and occupancy for a period up to one year.

**§ 114-6. Summary closure.**

Nothing in this chapter prohibits the City of Seat Pleasant from taking any emergency action for the summary and temporary closure of a property when immediate closure is necessary to avoid an immediate threat to public health, welfare or safety. The City may take summary action to close the property without complying with the notification provisions of § 114-4, but shall provide such notice as is reasonable under the circumstances. The summary closure of a property shall last only as long as reasonably necessary to address the immediate threat to public health, welfare or safety that necessitated the closure.

**§ 114-7. Severability.**

If any portion of this chapter, or its application to any person or circumstances, is held invalid, the validity of the article as a whole, or any other portion thereof, or the application of the provision to other persons or circumstances, is not affected.