

11/07/2002

111-O-02

AN ORDINANCE

**Enacting a New Section 9-5-4 of the City Code
Regarding "Nuisance Premises"**

WHEREAS, 65 ILCS 5/11-5-3 of the Illinois Compiled Statutes authorizes municipalities to prevent intoxication, fighting, dog fights, and all other disorderly conduct; and

WHEREAS, the City, as a home rule municipality, is authorized by Article VII, Section 6 of the 1970 Illinois Constitution to enact ordinances pertaining to its government and affairs; and

WHEREAS, ordinances designed to curb the effect of disruptive behaviors on persons in their homes, businesses and on the public way pertain to the City's government and affairs; and

WHEREAS, the City Council finds that violations of regulations relating to alcoholic liquor licensing are addressed through the comprehensive regulatory scheme set forth in Title 3, Chapter 5 of the City Code and in 235 Illinois Compiled Statutes; and

WHEREAS, the City Council finds that certain offenses committed on private property, in particular, felonies and misdemeanors, and those violations of the City Code relating to alcoholic liquor, illegal drugs, drug paraphernalia, animal fighting, gambling, resisting lawful actions of the police, noise, curfew, weapons, property maintenance, overcrowding, are extremely disturbing and disruptive to the public health, welfare, and safety; and

WHEREAS, conditions relating to the maintenance and upkeep of property, including, but not limited to, garbage accumulation, graffiti, overcrowding, abandoned vehicles, overgrown weeds, further contribute to neighborhood nuisance; and

WHEREAS, the City Council finds that the aforescribed behaviors and offenses are inimical to the enjoyment of life on neighboring premises and threaten the stability of neighborhoods; and

WHEREAS, the City Council finds that the aforescribed offenses contribute to an enhanced sense of fear, intimidation, and disorder by persons on neighboring premises; and

WHEREAS, said offenses are nuisances and constitute threats to both persons and the peaceful enjoyment of property; and

WHEREAS, in view of the aforescribed facts, the City Council deems it in the public interest as a means of promoting the peaceful co-existence of neighborhood residents for the protection of the public health, welfare, and safety to enact an Ordinance prohibiting the maintaining of a nuisance premises; and

WHEREAS, the City Council further finds that the public interest would be served by requiring owners of nuisance premises to provide and adhere to a plan of correction designed to reduce or prevent future unlawful activity; and

WHEREAS, the City has created a Civil Enforcement Team to abate the aforescribed violations of laws and ordinances and to improve the quality of life in the City thereby,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That the City Council hereby finds as fact the foregoing recitals and incorporates them herein.

SECTION 2: That Section 9-5-4 of the Evanston City Code of 1979, as amended, be and it hereby is, further amended, by deleting the existing text and substituting therefor the following:

SECTION 9-5-4: Nuisance Premises:

(A) Definitions

“Nuisance Premises”: Any premises used for any below-listed activity, provided however that violations relating to alcoholic liquor licensing are not subject to the plan of correction provision set forth in Section 9-5-4 (C), inasmuch as such violations are subject to the comprehensive regulatory provisions set forth in Title 3, Chapter 5 of the City Code and in 235 Illinois Compiled Statutes.

1. Any felony; or
2. In any six- (6-) month period, two or more offenses which are misdemeanors under State or Federal law or a violation of the following City Code provisions:
 - a. Section 3-5-3 (A) (1), [Liquor] License Required
 - b. Section 3-5-11, Sales to Minors, Certain Persons Restricted
 - c. Section 3-5-13, Responsibility of Parents and Others for Alcohol Consumption by Minors
 - d. Section 3-5-14, [Liquor] Age Restrictions, Identification Cards
 - e. Title 8, Chapter 16, Marijuana

- f. Title 8, Chapter 17, Drug Paraphernalia
- g. Section 9-4-3-2, Limitation on Number of Dogs
- h. Section 9-4-14, Cruelty to Animals [includes animal fighting]
- i. Section 9-4-17, Dangerous Dogs
- j. Section 9-5-3, Disorderly Conduct
- k. Section 9-5-6, Disturb the Peace
- l. Section 9-5-8-1, Gambling House, Establishments
- m. Section 9-5-8-4, Gambling Acts
- n. Section 9-5-10 (C) (1), Alcoholic Beverages, Consumption/Possession Public Property (sidewalks and parkways)
- o. Section 9-5-20-1, Obedience to Police in Public Places
- p. Section 9-5-20-4, Resisting or Interfering With Police
- q. Section 9-5-23, Noises Prohibited
- r. Section 9-6-1 (A), Curfew
- s. Title 9, Chapter 8, Weapons
- t. 720 ILCS 5/11-14, Prostitution
- u. BOCA National Fire Prevention Code, Section F601.8, Overcrowding
- v. BOCA National Property Maintenance Code

Encourages or permits: Acquiesces, by failure to prevent or expressly consent to an act.

Premises: Any parcel of property or part thereof and the building or structure, if any, which is situated on the property, and any portion of the public way that abuts the parcel of property, when it is used in conjunction with the abutting property for the commission of illegal activity.

“Reasonably Believes”: “Reasonably believes” or “reasonable belief” means that the person concerned, acting as a reasonable person, believes that the described facts exist.

(B) **Maintaining Nuisance Premises Prohibited:**

1. **Prohibited Acts (Tenant):** Any tenant, occupant, or any person having or exercising control over a premises or part thereof who shall use or permit a premises or part thereof to be used as a “nuisance premises” as defined by Section 9-5-4 (A) shall be guilty of maintaining a nuisance premises.
2. **Prohibited Acts (Owner):** Any person who owns, manages, or controls any premises and who encourages or permits said premises or a part thereof to be used as a “nuisance premises” shall be guilty of maintaining a nuisance premises.

(C) **Plan of Correction:**

Whenever the Chief of Police or his or her designee reasonably believes that any premises constitutes a nuisance premises as described in this Section 9-5-4, he or she may give written notice to the person who owns or controls or manages the premises and identify reasonable corrective measures that must be taken within thirty (30) days of the notice. The notice shall be in writing and may be served in person or sent by certified mail, with first-class postage prepaid, return receipt requested. The notice shall provide the recipient a reasonable opportunity to meet with the Chief of Police or his designee and other representatives of the City to discuss allegations in the notice and plan of correction. Any plan of correction shall require the taking of reasonable measures designed to prevent the recurrence of the illegal activity as defined in subsection 9-5-4 (A), “nuisance premises” in light of the magnitude of the harm caused by the illegal activity, the value of the property, and the extent to which the person who owns or controls or manages the premises has failed to take effective measures to correct the conditions giving rise to the determination that the premises is a “nuisance premises”. Upon the failure to implement the corrective measures identified in the notice or other corrective measures which successfully correct the nuisance within the 30-day period following the notice,

the issuer of the notice may issue a citation against the person who owns, controls, or manages the premises for a violation of this Subsection 9-5-4 (C). The Chief of Police may, upon good cause shown, extend the time for implementation of a plan of correction.

Neither the notice nor this plan of correction shall be a prerequisite to the issuance of a citation for violation of Section 9-5-4 (B) (1), Prohibited Act (Tenant) or Section 9-5-4 (B) (2), Prohibited Act (Owner).

(D) **Administrative Adjudication:** Violations of this Section 9-5-4 shall be adjudicated through the City's Administrative Adjudication System provided for in Title 11, Chapter 1 of the City Code.

(E) **Penalties:**

1. Any person violating Section 9-5-4 (B) (1) shall be subject to a maximum fine of \$750.00.
2. Any person violating Section 9-5-4 (B) (2) or Section 9-5-4 (C) shall be subject to a fine of no less than \$200.00 nor more than \$750.00.
3. Each day that a violation of this Section 9-5-4 continues shall be considered a separate and distinct offense.

SECTION 3: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: November 11, 2002

Adopted: November 25, 2002

Approved: December 2, 2002

Lorraine A. Norton
Mayor

ATTEST:

Mary D. Morris
City Clerk

Approved as to form:

[Signature]
Corporation Counsel

