

ORDINANCE #66181
Board Bill No. 335
Floor Substitute

An ordinance pertaining to public nuisances; repealing Ordinance 64693 and enacting in lieu thereof a new ordinance establishing procedures for the abatement of public nuisances identified by the Public Safety Director; containing definitions, a penalty clause and an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. Ordinance 64693 is hereby repealed and in lieu thereof the following provisions are enacted.

SECTION TWO. For purposes of this ordinance, "premises" includes any parcel of property 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.

SECTION THREE. Nuisance defined.

(A) Any premises upon which a continuing act or physical condition is, made, permitted, allowed or continued by any person or legal entity, their agents or servants or any person or legal entity who aids therein, which is significantly detrimental to the safety, welfare or convenience of the inhabitants of the City or a substantial part thereof, or any act or condition specifically set forth in this ordinance or any act or condition so designated by statute or ordinance, is hereby deemed a public nuisance.

(B) Any premises used for prostitution, illegal gambling, illegal possession or delivery of or trafficking in controlled substances, or any other activity that constitutes a felony, misdemeanor or ordinance violation under federal, state or municipal law which is significantly detrimental to the safety, welfare and convenience of the inhabitants of the City or a substantial part thereof, is hereby declared to be a public nuisance; provided that no public nuisance or violation of this section shall be deemed to exist unless (i) the property is used for two or more such offenses within any six-month period, or (ii) the offense for which the property is used is punishable by imprisonment for one year or more.

SECTION FOUR. Whenever the Director of Public Safety reasonably believes that any premises constitutes a public nuisance as defined in Section Three, said Director or said Director's designee, shall give written notice to the person who owns or controls the premises stating that a nuisance exists and identifying reasonable abatement measures that must be taken within 30 days of the notice. The notice shall be in writing and may be served in person or sent by certified mail, return receipt requested. A copy of the notice shall be posted in a prominent place on the premises. The notice shall provide the recipient a reasonable opportunity to meet with a representative of the city to discuss allegations in the notice and the need for abatement measures.

SECTION FIVE. Any person who engages in, encourages or permits an illegal activity, as defined in paragraph (B) of Section Three of this ordinance, to occur or continue on such premises after the date of posting of the notice issued by the Public Safety Director, pursuant to Section Four; or any owner or manager of any premises who fails to implement reasonable and warranted abatement measures identified in the such notice issued by the Director of Public Safety or abatement measures subsequently agreed to, or other abatement measures which successfully abate the nuisance within the 30-day period following the notice, or within any other agreed upon period, shall be in violation of this ordinance and shall be subject to a fine of not less than \$200.00 and not more than \$500.00 for each offense. Each day that a violation of this section continues shall be considered a separate and distinct offense. No person shall be found in violation of (ii) of this section unless the city proves that the abatement measures were reasonable and warranted, and that the defendant knowingly failed to implement them. A person may be found in violation of this section regardless of whether an order of abatement is issued under Section Four.

SECTION SIX. In addition to the issuance of a summons under Section Four herein, the Director of Public Safety may initiate an administrative adjudication hearing in order to abate a public nuisance as defined in Section Three when the person has failed to abate a nuisance within 30 days of a notice issued pursuant to Section Four of this ordinance. Notice of such hearing shall be in writing and shall be served in person or sent by certified mail, return receipt requested not less than twenty (20) days prior to the date of such hearing. The order of abatement shall require the taking of reasonable measures designed to prevent the recurrence of the nuisance activity in light of the magnitude of the harm caused by the nuisance, the value of the property, and the extent to which the defendant has failed to take effective measures to abate the nuisance. Those measures may include, but are not limited to, making improvements to real estate and installing lighting to enhance security, the hiring of licensed and insured security personnel,

the appointment of a receiver, the initiation and execution of eviction proceedings against tenants engaged in illegal activity, or the closing and securing of the premises for a period not to exceed one year.

SECTION SEVEN. Administrative hearings.

- (a) Any administrative adjudication proceeding conducted by the Department of Public Safety shall afford the parties an opportunity for a hearing before an administrative hearing officer.
- (b) An attorney who appears on behalf of any person shall file with the administrative hearing officer a written appearance on a form provided by the Department of Public Safety for such purpose.
- (c) The case for the city shall be presented by the Office of the City Counselor.
- (d) The administrative hearing officer may grant continuances only upon a finding of good cause.
- (e) All testimony shall be given under oath or affirmation.
- (f) The administrative hearing officer may issue subpoenas to secure the attendance and testimony of relevant witnesses and the production of relevant documents.
- (g) Subject to subsection (j) of this section, the administrative hearing officer may permit witnesses to submit their testimony by affidavit.
- (h) The formal and technical rules of evidence shall not apply in the conduct of the hearing. 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.
- (i) No violation may be established except upon proof by a preponderance of the evidence; provided, however, that a violation notice, or a copy thereof, issued and signed in accordance with Section Four herein shall be prima facie evidence of the correctness of the facts specified therein.
- (j) Upon the timely request of any party to the proceeding, any person, who the administrative hearing officer determines may reasonably be expected to provide testimony which is material and which does not constitute a needless presentation of cumulative evidence, shall be made available for cross-examination prior to a final determination of liability.
- (k) The record of all hearings before an administrative hearing officer shall include: (i) a record of the testimony presented at the hearing, which may be made by tape recording or other appropriate means; (ii) all documents presented at the hearing; (iii) a copy of the notice of violation or notice of hearing; and (iv) a copy of the findings and decision of the administrative hearing officer.
- (l) Upon conclusion of a hearing, the administrative hearing officer shall issue an Order of Abatement requiring the taking of reasonable measures designed to prevent the recurrence of the illegal activity in light of the magnitude of the harm caused by the nuisance, the value of the property, and the extent to which the defendant has failed to take effective measures to abate the nuisance.
- (m) In the issuance of a final determination of liability, an administrative hearing officer shall inform the respondent of his or her right to seek judicial review of the final determination.

SECTION EIGHT. Emergency clause.

This being an ordinance for the preservation of public peace, health, and safety, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall become effective immediately upon its passage and approval by the mayor.

Approved: February 26, 2004