

# VILLAGE OF ANTIOCH

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11-08-13

**AN ORDINANCE AMENDING TITLE 6 OF THE MUNICIPAL CODE OF ANTIOCH  
PROHIBITING OWNERSHIP OR MAINTENANCE OF NUISANCE PROPERTIES**

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**ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES**

**OF THE**

**VILLAGE OF ANTIOCH, ILLINOIS**

**ON**

**AUGUST 15, 2011**

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**Published in pamphlet form by authority of the Village Board  
of the Village of Antioch, Lake County, Illinois,  
this 24<sup>th</sup> day of August, 2011.**

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**ORDINANCE NO. 11-08-13**  
**AN ORDINANCE AMENDING TITLE 6**  
**OF THE MUNICIPAL CODE OF ANTIOCH**  
**PROHIBITING OWNERSHIP OR MAINTENANCE**  
**OF NUISANCE PROPERTIES**

**WHEREAS,** the safety and peace of our community can be severely threatened by the use of private homes, apartment buildings and other structures for illegal gang or drug-related purposes, and

**WHEREAS,** the Village Board wishes to take all reasonable steps possible to ensure that law enforcement has the tools and mechanisms necessary to protect our law-abiding citizens from the twin scourges of gangs and drugs, and

**WHEREAS,** the Village does not currently have regulations dealing specifically with housing and other structures which are being used for criminal purposes on a chronic or repetitive basis, but the same are found to pose serious problems of security, safety and public health in our community, and

**WHEREAS,** the Village Board has reviewed a proposed amendment to Title 6 of the Village Code which installs definitions of nuisance properties, prohibits the maintenance of the same and mechanisms where the same can be regulated and abated, and has found the same to be fair, appropriate and consonant with fundamental principles of due process, while properly balancing the rights of property owners with those of surrounding residents,

**NOW THEREFORE, BE IT ORDAINED** by the Village of Antioch, Lake County, Illinois, as follows:

**SECTION ONE:** Title 6 of the Antioch Municipal Code is hereby amended by the adoption of Chapter 4 thereof, which shall hereafter read as is set forth on the draft code attached as Exhibit A hereto.

**SECTION TWO:** This ordinance is intended to be severable, and if any portion thereof, or of the draft code adopted hereby is deemed to be unconstitutional or violative of any law or process, the remainder shall remain in full force and effect to the maximum extent possible under law.

**SECTION THREE:** This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, ILLINOIS, ON THIS 15<sup>TH</sup> DAY OF AUGUST, 2011.

AYES: 6: Pierce, Sakas, Poulos, Crosby, Dominiak and Jozwiak.

NAYS: 0.

ABSENT: 0.

  
LAWRENCE M. HANSON, MAYOR

ATTEST:

  
CANDI L. ROWE, VILLAGE CLERK





## Title 6, Chapter 4 ABATEMENT OF CHRONIC NUISANCE PROPERTIES

### Sections:

- 6-4-1 Violation.
- 6-4-2 Definitions.
- 6-4-3 Remedy.
- 6-4-4 Abatement of nuisance.
- 6-4-5 Procedure.
- 6-4-6 Commencement of action--Burden of proof.
- 6-4-7 Emergency closing procedures.

### 6-4-1 Violation.

- (a) Any certain property within the Village of Antioch which becomes a chronic nuisance property is in violation of this chapter and subject to its remedies.
- (b) Any person in charge who permits property under his or her ownership or control to be a public nuisance property is in violation of this chapter and subject to its remedies.

### 6-4-2 Definitions.

As used in this chapter, the following terms shall have the meanings set forth below:

**Chronic Nuisance Property.** Chronic nuisance property shall be property upon which three or more of the nuisance activities listed below have occurred during any one hundred and twenty day period, as a result of any three separate factual events that have been independently investigated by any law enforcement agency:

- (1) "Disorderly conduct" as defined in 720 ILCS 5/26-1;
- (2) "Unlawful use of weapons" as defined in 720 ILCS 5/24-1 et seq.;
- (3) "Mob action" as defined in 720 ILCS 5/25-1;
- (4) "Discharge of firearm" as defined in 720 ILCS 5/24-1.2 and 1.5;
- (5) "Gambling" as defined in 720 ILCS 5/28-1;
- (6) "Possession, manufacture or delivery of controlled substances" as defined in 720 ILCS 570/401 et seq.;
- (7) "Public indecency" as defined in 720 ILCS 5/11-9;
- (8) "Assault or battery or any related offense" as defined in 720 ILCS 5/12-1 et seq.;
- (9) "Sexual abuse or related offense" as defined in 720 ILCS 5/12-15 et seq.;
- (10) "Prostitution" as defined in 720 ILCS 5/11-14 et seq.;
- (11) "Criminal damage to property" as defined in 720 ILCS 5/21-1 et seq.;
- (12) "Possession, cultivation, manufacture or delivery of cannabis" as defined in 720 ILCS 550/3 et seq.;
- (13) "Illegal consumption or possession of alcohol" as defined in 235 ILCS 5/6-16 et seq.;

"Control" means the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.

"Court" shall mean either the adjudication court established and maintained by the Village of Antioch or the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois as to matters within the jurisdiction of each adjudicative body.

"Owner" means any person, agent, firm or corporation having any legal or equitable interest in the property. Owner includes, but is not limited to:

- (1) The person, persons, entity or entities which hold record legal title to a property.
- (2) A mortgagee in possession in whom is vested:
  - (A) All or part of the legal title to the property,
  - (B) All or part of the beneficial ownership and the right to the present use and enjoyment of the premises;
- (3) Any tenant or other occupant who has the right or ability to control what occurs on the property.

"Permit" means to suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

"Person" means any natural person, association, partnership or corporation capable of owning or using property in the Village of Antioch.

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

"Property" means any real property, including land, which is affixed, incidental or pertinent to land, including but not limited to any premises, room, house, building or structure or and separate part or portion thereof, whether permitted or not.

#### 6-4-3 Remedy.

- (a) In the event a court determines property to be a chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than thirty days, but not more than one hundred eighty days or the court may employ any other remedy available in law or equity deemed by it to be appropriate to abate the nuisance.
- (b) In addition to the remedies provided in subsection (a) of this section, the court may impose upon the owner of the property a civil penalty in the amount of not less than one hundred dollars per day up to five hundred dollars per day, payable to the Village of Antioch, for each day the owner had actual knowledge that the property was a chronic nuisance property and permitted the property to remain chronic nuisance property.
- (c) In determining what remedy or remedies shall be employed, the court may consider evidence of other conduct which has occurred on the property, including, but not limited to:

- (1) The disturbance of neighbors;

- (2) The recurrence of loud and obnoxious noises;
- (3) Repeated consumption of alcohol in public.

#### 6-4-4 Abatement of nuisance.

The Village's prosecuting attorney may prosecute such cases or assist in the prosecution of such cases as are filed in either the adjudication court of the Village or the branch courts of the Circuit Court when the remedies sought are limited to monetary penalties within the respective jurisdictions of those adjudicatory bodies.

The Village Attorney may commence an action in the Circuit Court to abate the chronic public nuisance property as described above. Upon being satisfied by affidavits or other sworn evidence that an alleged chronic nuisance property exists, the court may, without notice or bond, enter a temporary restraining order or a preliminary injunction to enjoin any defendant from maintaining such nuisance and may enter an order restraining any defendant from removing or interfering with all property used in connection with the public nuisance.

#### 6-4-5 Procedure.

When the Chief of Police receives one or more police reports documenting the occurrence of a nuisance activity on or within a property, the Chief of Police shall independently review such reports to determine whether they describe criminal acts. Upon such findings, the Chief may:

(a) Notify the person in charge in writing that the property is in danger of becoming a chronic nuisance property. The notice shall contain the following information:

- (1) The street address or a legal description sufficient for identification of the property;
- (2) A statement that the Chief of Police has information that the property may be chronic nuisance property, with a concise description of the nuisance activities that may exist or that have occurred. The Chief of Police shall offer the person in charge an opportunity to propose a course of action that the Chief of Police agrees will abate the nuisance activities giving rise to the violation.
- (3) Demand that the person in charge respond to the Chief of Police within ten days to discuss the nuisance activities.

(b) If after complying with the notification procedures described herein the Chief of Police receives a police report documenting the occurrence of a third nuisance activity at or within a property and determines that the property has become a chronic nuisance property, the Chief of Police shall:

- (1) Notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall conform to the following:
  - (A) It shall set forth the street address or legal description sufficient for identification of the property;

(B) It shall include a statement that the Chief of Police has determined the property to be a chronic nuisance property with a concise description of the nuisance activities leading to his/her findings;

(C) It shall demand that the person in charge respond within ten days to the Chief of Police and propose a course of action that the Chief of Police agrees will abate the nuisance activities giving rise to the violation;

(D) Service shall be made either personally or by first class mail, postage pre-paid, return receipt requested, addressed to the person in charge at the address of the property believed to be a chronic nuisance property, or such other place which is likely to give the person in charge notice of the determination by the Chief of Police;

(E) A copy of the notice shall be served on the owner at such address as shown on the tax rolls of Lake County, Illinois and/or the occupant, at the address of the property, if these persons are different than the person in charge, and shall be made either personally or by first class mail, postage pre-paid;

(F) A copy of the notice shall also be posted at the property after the ten days has elapsed from the service or mailing of the notice to the person in charge and the person in charge has not contacted the Chief of Police;

(G) The failure of any person to receive notice that the property may be a chronic nuisance property shall not invalidate or otherwise affect the proceedings under this chapter.

(2) If, after the notification, but prior to the commencement of legal proceedings by the Village pursuant to this chapter, a person in charge stipulates with the Chief of Police that the person in charge will pursue a course of action that parties agree will abate the nuisance activities giving rise to the violation, the Chief of Police may agree to postpone legal proceedings for a period of not less than ten nor more than thirty days. If the agreed course of action does not result in the abatement of the nuisance activity or if no agreement concerning abatement is reached within thirty days, the Chief of Police shall request the Village Attorney or Prosecuting Attorney to commence a legal proceeding to abate the nuisance.

(3) Concurrent with the notification procedures set forth herein, the Chief of Police shall send copies of the notices, as well as any other documentation which supports legal proceedings, to the Village Attorney.

(c) When a person in charge makes a response to the Chief of Police as required above, any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have or are occurring. This subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.



(a) In an action seeking closure of a chronic nuisance property, or seeking to impose a civil penalty, the Village shall have the burden of showing by preponderance of the evidence that the property is a chronic nuisance property.

(b) It is a defense to an action seeking the closure of chronic nuisance property that the owner of the property at the time in question 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 findings that the property is a chronic nuisance property. The owner shall have the burden of proving this defense by a preponderance of the evidence.

(c) In establishing the amount of any civil penalty requested, the court may consider any of the following factors if they find appropriate, and shall cite those found applicable:

- (1) The actions or lack of action taken by the person in charge to mitigate or correct the problem at the property;
- (2) Whether the problem at the property was repeated or continuous;
- (3) The magnitude or gravity of the problem;
- (4) The cooperation of the person in charge with the Village;
- (5) The cost of the Village investigating and correcting or attempting to correct the condition.

#### 6-4-7 Emergency closing procedures.

(a) In the event that it is determined that the property is an immediate threat to the public safety and welfare, the Village may apply to the Circuit Court for such interim relief, as is deemed by the Chief of Police in consultation with the Village Attorney to be appropriate. In such an event, the notification provision set forth in Section 6-4-5 need not be complied with, however, the Village shall make a diligent effort to notify the person in charge prior to a court hearing.

(b) In the event that the court finds the property constitutes a chronic nuisance property as defined in Section 6-4-2, the court may order such remedies as are provided for in this chapter. In addition, in the event that it also finds a person in charge had knowledge of activities or conditions of the property constituting or violating this chapter and permitted the activities to occur, the court may assess a civil penalty as provided for in this chapter.

(c) The court may authorize the Village of Antioch to physically secure the property against use or occupancy in the event the owner fails to do so within the time specified by the court. In the event that the Village is authorized to secure the property, all costs reasonably incurred by the Village to affect the closure shall be accounted for and assessed as a lien against the property. If used herein, "costs" mean those costs actually incurred by the Village for the physical securing of the property, as well as any tenant relocation costs the Village might incur.

(d) The Village of Antioch employee effectuating the closure shall prepare a statement of costs and the Village of Antioch shall thereafter submit such statement to the court for its review. If no objection of the statement is made within the period described by the court, a lien in such amount may be recorded against such property.

(e) Any person who is assessed the cost of closure and/or civil penalty by the court shall be personally liable for the payment thereof by the Village.

(f) As an ancillary to any enforcement action, the Court shall have the power to adjudicate any claim brought in the form of a petition with due and proper notice by a displaced, innocent tenant against the owner for damages occasioned by the loss of use of any property, and the Court may award judgment in favor of such tenant against the owner in its discretion based upon the evidence presented.

#### 6-4-8 Discretionary Action.

The provisions of this Chapter are designed and intended to give discretion to the Chief of Police, the Village Attorney, the Prosecuting Attorney and any other Village employees or agents. They are intended to provide useful tools and mechanisms for dealing with chronic problem properties and to help preserve order and peace within the community. For these reasons, the following provisions, consistent with the reservation of discretion shall apply:

(a) Nothing herein is intended, and nothing shall be construed as intending, to create rights in citizens to require action to be taken by any official, employee or agent of the Village.

(b) Nothing herein is intended to give any tenant whose tenancy is disrupted by any action taken pursuant to this chapter a charge or claim against the Village for costs of relocation or loss of use of any rental property.