

**ORDINANCE AMENDING CITY OF SOUTHAVEN CODE OF ORDINANCES BY
ADDING THE CITY OF SOUTHAVEN CHRONIC NUISANCE PROPERTY
ORDINANCE**

WHEREAS, the City of Southaven ("City") Board finds that chronic nuisance properties present grave health, safety and welfare concerns, where the persons responsible for such properties have failed to take corrective action to abate the nuisance condition; and

WHEREAS, chronic nuisance properties have a tremendous negative impact upon the quality of life, safety and health of neighborhoods where they are located; and

WHEREAS, this Ordinance is enacted to remedy nuisance activities that are particularly disruptive to quality of life and repeatedly occur or exist at properties by providing a process for abatement; and

WHEREAS, 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 property; and

WHEREAS, pursuant to Miss. Code 21-17-5, the City Governing Authorities shall have the power to adopt any orders, resolutions or ordinances with respect to such municipal affairs, property and finances which are not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi,

WHEREAS, this Ordinance may be used in conjunction with the building code series, property maintenance code, comprehensive ordinance enforcement code, Miss. Code Anno. § 21-19-11 and any other state law or local ordinance; and

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI, BY RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI TO AMEND THE CITY OF SOUTHAVEN CODE OF ORDINANCES, TITLE X, CHAPTER 4 AS FOLLOWS:

SECTION 1. The prefatory clauses are hereby incorporated herein as findings of the City Governing Authorities of the City of Southaven.

SECTION 2. The City Code of Ordinances is amended to add Title X, Chapter 4 "Chronic Nuisance Property Ordinance" as follows:

Title.

This article may be cited as the "City of Southaven Chronic Nuisance Property Ordinance."

Purpose.

- (a) Chronic nuisance properties present grave health, safety and welfare concerns, where the persons responsible for such properties have failed to take corrective action to abate the nuisance condition. Chronic nuisance properties have a tremendous negative impact upon the quality of life, safety and health of neighborhoods where they are located. This ordinance is enacted to remedy nuisance activities that are particularly disruptive to quality of life and repeatedly occur or exist at properties by providing a process for penalizing such properties. This remedy is not an exclusive remedy available under any 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 property. This ordinance is a means to improve those conditions and hold accountable those persons responsible for such property.

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chronic Nuisance Property means property on which a combination of three or more Nuisance Activities occurs or exist during any continuous twelve (12) month period.

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

Nuisance Activity means any criminal conduct or code violation as defined by state law or City of Southaven Ordinance occurring on a property. The term "Nuisance Activity" shall not include conduct where the Person Responsible is the victim of a crime and had no control over the criminal act.

Person means natural person, joint venture, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer or employee of any of them.

Person Responsible for the Property or *Person Responsible* means, unless otherwise defined, any person who has titled ownership of the property or structure which is subject to this article, an occupant in control of the property or structure which is subject to this article, a developer, builder, or business operator or owner who is developing, building or operating a business on the property or in a structure which is subject to this article and/or any person who has control over the property and allows a violation of this article to continue.

Premises and *Property* may be used by this article interchangeably and means a public or private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as a residential or commercial property.

Violation.

- (a) Any Premises or Property within the City of Southaven, which is Chronic Nuisance Property is in violation of this article and subject to its remedies.
- (b) Any Person Responsible for Property who permits property to be a Chronic Nuisance Property shall be in violation of this Ordinance and subject to its remedies.

Procedure and Penalty.

- (a) The police chief or his designee shall report any criminal activity defined in this Ordinance on a monthly basis to the City Planning Director or her designee. The City Planning Director or her designee shall review and confirm the occurrence of three or more Nuisance Activities that have been found in guilty or in violation of the Mississippi law or City of Southaven Ordinance by a Court of competent jurisdiction within a twelve (12) month period. Upon such finding, the City Planning Director shall notify the Person Responsible for the Property of the City Court date to determine if the Premises or Property is adjudicated to be a Chronic Nuisance Property.
- (b) The notice of violation shall contain:
 - (1) The street address or legal description sufficient enough for identification of the Property or Premises;
 - (2) A concise description of the Nuisance Activity that have occurred on the Property or Premises;
 - (3) A copy of this Ordinance along with the dates of adjudication for each offense. The notice shall also include a summons for the City of Southaven Court date and that upon conviction for misdemeanor violation of this Ordinance and declaration of the Property or Premises being a Chronic Nuisance Property, the Person Responsible shall be assessed a \$1,000.00 penalty and may result in closure of the Premises or Property and suspension of the Person Responsible certificate of occupancy for the Property.
- (c) The City Planning Director or designee shall serve or cause to be served written notice upon the Person Responsible by the following means of delivery:
 - (1) Delivered in person by a police officer to the Person Responsible for the Property.
 - (2) By first class United States mail, postage prepaid, addressed to the Person Responsible for the Property. Service by mail is deemed complete upon deposit in the U.S. mail.
- (d) It is a defense to an action for Chronic Nuisance Property that the Person Responsible, at all material times, could not, in the exercise of reasonable care or diligence, determine that the Property or Premises had become a Chronic Nuisance Property.
- (e) As part of the City Court proceedings, the City shall submit official police reports, code violations, and other Nuisance Activity occurring or existing at the Premises or Property.

- (f) Once the City Court determines the Premises or Property to be a Chronic Nuisance Property under this Ordinance, the City Court may impose a penalty in an amount not to exceed \$1,000.00 against any or all the Persons Responsible for the Property and may order any other relief deemed appropriate, including but not limited to closure of the Premises or Property; suspension of the Responsible Person's certificate of occupancy for the Premises or Property; and/or imprisonment not exceeding ninety (90) days.

Summary closure.

Nothing in this article prohibits the City from taking any emergency action for the summary closure of such property or other available remedies when it is necessary to avoid an immediate threat to public welfare and safety.

SECTION 3. *Severability.* If any term or provision of this Ordinance is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms and provisions of this Ordinance shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

SECTION 4. The City Clerk is hereby directed to cause a summary of this ordinance in a form allowed by law to be published one time in the *Desoto Times Tribune*.

SECTION 5. The effective date of this ordinance shall be thirty (30) days after passage and publication required by law.

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After a full discussion of this matter, Alderman Hoots moved that the foregoing Resolution to adopted and said motion was seconded by Alderman Gallagher and the vote thereupon was as follows:

Alderman William Jerome	voted: YES
Alderman Kristian Kelly	voted: YES
Alderman Charlie Hoots	voted: YES
Alderman George Payne	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman John Wheeler	voted: YES
Alderman Raymond Flores	voted: YES

RESOLVED AND DONE, this 21st day of September, 2021.

DARREN MUSSELWHITE, MAYOR

ATTEST:

CITY CLERK