

ORDINANCE NO. 1032

STATE OF ILLINOIS)
)
COUNTIES OF COOK) SS
)
 AND WILL)

**AN ORDINANCE AMENDING THE STEGER CODE OF ORDINANCES TO
DEFINE AND ABATE NUISANCE RENTAL HOUSING UNITS**

WHEREAS, the corporate authorities of the Village of STEGER have passed and approved Ordinance 976 on December 15, 2008, to establish a crime-free housing program; and,

WHEREAS, in the absence of home-rule powers, a reasonable question may arise whether the Village has proper authority to carry out its crime-free housing program; and,

WHEREAS, the corporate authorities find that, given the possibility of a legal challenge to Ordinance 976, it should be repealed; and,

WHEREAS, the corporate authorities have determined that the public safety goals of the Village's crime-free housing program may be advanced by setting forth the standards under which rental housing units may be adjudged a nuisance; and,

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/11-60-2, authorizes the corporate authorities to define, prevent, and abate nuisances;

NOW THEREFORE, BE IT ORDAINED by President and Board of Trustees of the Village of STEGER as follows:

Section 1. Ordinance 976, entitled "An Ordinance Amending the STEGER Code of Ordinances to Provide for a Crime-Free Housing Program," is hereby repealed.

Section 2. Chapter 18 of the Code of Ordinances of the Village of STEGER, entitled "Businesses and Business Regulations," is hereby amended by adding a new provision entitled "Rental Housing Nuisance," which shall read as follows:

RENTAL HOUSING NUISANCE

Sec. 18-400. Definitions.

- (a) "Chief law enforcement officer" means the Chief of Police of the Village or his designee.
- (b) "Nuisance activity" means any activities described in items (i) through (xiv) of subsection (f) of this Section.
- (c) "Nuisance property" means a potential nuisance property that has been adjudicated pursuant to Section 18-801 (b) of this Ordinance and declared to be a nuisance property and a penalty has been imposed by the court pursuant to Section 18-803 of this Ordinance.
- (d) "Owner" means any person having any legal or equitable interest to title in the property in question.
- (e) "Person" means any natural person, partnership, limited partnership, corporation, limited liability company, or other entity organized under the laws of any state or the United States.
- (f) "Potential nuisance property" means property upon which 3 or more instances of any one or any combination of the activities listed below have occurred during any 120 day period as a result of any 3 separate factual events that have been independently investigated by any law enforcement agency that have resulted in an arrest, issuance of a warrant for an arrest, issuance of a ticket or citation or the filing of a police report.
 - (i) Disorderly conduct as defined in Section 26-1 of the Criminal Code of 1961.
 - (ii) Unlawful use of weapons as defined in Section 24-1 of the Criminal Code of 1961.

- (iii) Mob action as defined in Section 25-1 of the Criminal Code of 1961.
- (iv) Aggravated discharge of a firearm as defined in Section 24-1.2 and 24-1.2-5.
- (v) Gambling as defined in Section 28-1 of the Criminal Code of 1961.
- (vi) Possession, manufacture or delivery of a controlled substance as defined in Section 401 of the Illinois Controlled Substances Act.
- (vii) Assault or battery or any related offense as defined in Article 12 of the Criminal Code of 1961.
- (viii) Criminal sexual abuse or related offenses as defined in Sections 12-15 and 12-16 of the Criminal Code of 1961.
- (ix) Public indecency as defined in Section 11-9 of the Criminal Code of 1961.
- (x) Prostitution as defined in Section 11-14 of the Criminal Code of 1961
- (xi) Criminal damage to property as defined in Section 21-1 of the Criminal Code of 1961.
- (xii) Possession, cultivation, manufacture or delivery of cannabis as defined in the Cannabis Control Act.
- (xiii) Illegal consumption or possession of alcohol as defined in the Liquor Control Act of 1934.
- (xiv) Violation of any municipal ordinance or State of Illinois statute controlling or regulating the sale or use of alcoholic beverages.

(g) "Permitted" means to knowingly suffer, allow, consent to, acquiesce or expressly assent or agree to the doing of an act.

(h) "Property" means any real property and fixtures thereof leased for residential purposes or any part or portion thereof whether under an oral or written agreement.

Sec. 18-801. Procedure for the Addressing Potential Nuisance Property.

(a) After independent review of any police reports and determination by the chief law enforcement officer that the activity described therein as occurring upon the property meets the definition of nuisance activity and that the owner permitted the property to become a potential nuisance property, the chief law enforcement officer may require that the owner thereof or his or her or its property manager or other designee meet with the chief law enforcement officer to discuss the nuisance activity and steps the owner can take to mitigate or abate the activity in accordance with the following procedure:

(1) the chief law enforcement officer shall notify the owner and any local property manager, agent or employee of the owner known to the chief law enforcement officer in writing that the property is a potential nuisance property. Such notice shall be provided by either personal delivery or by first class mail. addressed to the owner and any local property manager, agent or employee of the owner, known to the chief law enforcement officer that is responsible for the property. The chief law enforcement officer shall also send notice by first class mail to the tenant at the address of the property. The notice shall contain the following information:

(i) The street address or a legal description sufficient for identification of the potential nuisance property.

(ii) A statement that the chief law enforcement officer has information that the property constitutes a potential nuisance property as defined by this Ordinance, with a concise description of the nuisance activity that may exist, or that has occurred that the chief law enforcement officer believes classifies the property as a potential nuisance property.

(iii) Demand that the owner or his or her or its property manager or other designee respond and meet with the chief law

enforcement within 20 days of personal delivery or receipt of the notice to discuss the nuisance activity. Refusal of receipt of the notice by the owner shall be deemed receipt of the notice for purposes of this Section.

(2) At the meeting between the chief law enforcement officer and the owner or his or her or its property manager or other designee, the chief law enforcement officer may request that the owner or his or her or its property manager or other designee implement a reasonable abatement plan designed to alleviate and prevent future occurrences of the nuisance activity upon the property. The mitigation or abatement plan may include, but is not limited to, a review of the property's access and security, lighting, access to common areas, graffiti removal, the posting of "No Trespass" signs and eviction. The mitigation or abatement plan shall be reasonable under the circumstances in its objective, cost and scope, and shall be implemented within 60 days of the meeting with the chief law enforcement officer or such longer period if not practically feasible to do so within 60 days.

If the nuisance activity complained of has or is being conducted by a tenant residing in or on the property, the chief law enforcement officer may request that the owner evict the tenant. If eviction is requested, the owner shall proceed with such an action in good faith. The Village shall assist in the eviction action by reasonably cooperating with the owner, including, but not limited to, providing law enforcement officers or other municipal employees as witnesses regarding the nuisance activity if relevant.

(b) If; after complying with the procedures of paragraph (2) of subsection (a) of this Section:

(1) between 90 and 365 days after the meeting, the chief law enforcement officer receives a report documenting the occurrence of a subsequent instance of nuisance activity upon the property, or

(2) the owner, within 60 days of the meeting or such other reasonable amount of time under the circumstances, fails to cause the implementation of a reasonable mitigation or abatement plan as requested by the chief law enforcement officer, or

(3) the owner fails to respond and meet with the chief law enforcement officer within the 20-day period without good cause, then the Village may issue a citation for a violation of this Ordinance to be heard and adjudicated before the Village's administrative hearing officer or in a court of competent jurisdiction. The Village may in its discretion seek to enforce this Ordinance for a nuisance violation and appropriate equitable relief in a court of competent jurisdiction.

(c) When an owner or his or her or its property manager or other designee responds and meets with the chief law enforcement officer as required above, no statements made in connection with the furnishing of that response or in a meeting shall constitute or be used as an admission that any nuisance activity has or is occurring. This subsection (c) does not require the exclusion of any other evidence which is otherwise admissible and offered for any other purpose than an admission by the owner or his or her or its property manager or other designee.

Section 18-802. Defenses.

It is a defense to an action seeking the declaration of the property as a 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 nuisance activity was occurring upon the property, or could not, in spite of the exercise of reasonable care and diligence, prevent a third party from engaging in the conduct constituting the nuisance activity complained of by the municipality. It shall also be a defense for an owner, if prior to the owner being served notice of enforcement proceedings, the owner or his or her or its property manager or other designee, notified a law enforcement agency of suspected illegal activity and has started the eviction process against any tenant or occupant responsible for the nuisance activity complained of. It shall also be a defense if an owner has made a good faith effort to implement the reasonable mitigation or abatement plan requested by the chief law enforcement officer, pursuant to clause (a)(2) of Section 18-801, but the nuisance activity has not been mitigated or abated. It shall also be a defense if an owner, in trying to mitigate or abate the nuisance activity prosecuted an eviction action against the tenant but the eviction was denied by a court.

Section 18-803. Penalties.

Upon a finding that the property is a nuisance property as defined by this Ordinance, the owner shall be subject to a fine of not less than \$50 and not more than \$750 for each day the violation has existed following the dates set forth in subparagraphs (b)(1) through (b)(3) of Section 18-801. Upon a determination of a violation of this Ordinance, a court may, in addition to imposing a fine, enter an injunction requiring abatement of the nuisance activity or an injunction prohibiting the occupancy of the property for a period of up to 6 months, or in the case of a multi-unit property, any unit thereof in question for a period of up to 6 months.

Section 2. This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED this 6th day of August, 2012.

Carmen Recupito, Jr., Village Clerk

APPROVED this 6th day of August, 2012.

Louis Sherman, Village President

Voting in favor: Seehausen, Kozy, Lopez, Peterson, Perchinski & Sherman

Voting against: _____

Not voting: Banicki, absent

