

1 BOARD BILL NO. 151CS

INTRODUCED BY

2 ALDERWOMAN MEGAN-ELLYIA GREEN,
 3 ALDERMAN JEFFREY BOYD, ALDERWOMAN SHARON TYUS,
 4 ALDERMAN SCOTT OGILVIE, ALDERWOMAN LYDA KREWSON,
 5 ALDERWOMAN CHRISTINE INGRASSIA, ALDERMAN JOSEPH VACCARO,
 6 ALDERWOMAN CARA SPENCER, ALDERMAN SHANE COHN,
 7 ALDERWOMAN BETH MURPHY, ALDERMAN CHRIS CARTER,
 8 ALDERWOMAN CAROL HOWARD, AND PRESIDENT REED

9
 10 An Ordinance revising and amending the Public Nuisances Code of the City of St.

11 Louis to protect victims of domestic violence or stalking by amending Sections One,
 12 Two, and Five of Ordinance 69730, approved April 18, 2014 and codified at Chapter
 13 15.42 of the Revised Code of the City of St. Louis; and containing a severability clause
 14 and an emergency clause.

15 **WHEREAS**, domestic violence is a serious crime against the individual and
 16 society which promotes a pattern of escalating violence which can culminate in severe
 17 injury and death; and

18 **WHEREAS**, the legal system has dealt ineffectively with family and household
 19 violence in the past, allowing abusers to escape effective prosecution or financial
 20 liability, and has also placed a burden on victims, who may risk being evicted for
 21 “nuisance” violations for having the courage to seek help from law enforcement
 22 authorities; and

23 **WHEREAS**, peer-reviewed research has uncovered that nuisance property laws
 24 have had the unintended consequence of discouraging victims from calling the police for

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1 protection, have exacerbated the barriers that victims already face in securing housing,
2 and have unfairly blamed the victim for criminal activity that the victim cannot control;
3 and

4 **WHEREAS**, studies from both Washington University in St. Louis and St. Louis
5 University have found cases of victims of domestic violence being evicted from housing
6 as an unintended result of nuisance property laws; and

7 **WHEREAS**, the City of St. Louis already has made changes to internal policies
8 with the goal of ensuring that victims of domestic violence are not evicted from their
9 housing; and

10 **WHEREAS**, in matters of great public interest, such as the preservation of life
11 and safety, it is common for the City of St. Louis to codify internal policies; and

12 **WHEREAS**, the U.S. Department of Housing and Urban Development issued a
13 ruling in September of 2016 in an effort to guide cities in amending nuisance property
14 ordinances to ensure the housing stability of victims of domestic violence; and

15 **WHEREAS**, domestic violence is the leading cause of housing instability and
16 homelessness for women in the United States; and

17 **WHEREAS**, women living in rental housing experience domestic violence at
18 three times the rate of women who own their homes.

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1 **WHEREAS**, this ordinance seeks to support the efforts of victims of domestic
2 violence to avoid further abuse or loss of accessible housing by offering them protection
3 from nuisance violations under our City's ordinances; and

4 **WHEREAS**, pursuant to Board Rule 54, the proposed amendments to Ordinance
5 69730 are set out in boldface in the body of this bill.

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

2 **SECTION ONE.** Section One of Ordinance 69730, approved April 18, 2014, and
3 codified at Section 15.42.010 of the Revised Code of the City of St. Louis, is hereby
4 amended to read as follows:

5 Definitions.

6 For the purposes of this chapter:

7 A. "Premises" includes any parcel of property, residential or commercial and
8 the building or structure, if any, which is situated on the property, and any portion of the
9 public way that abuts the parcel of property when it is used in conjunction with the
10 abutting property for the commission of illegal activity.

11 B. A "Nuisance" is a continuing act or physical condition which is made,
12 permitted, allowed or continued by any person or legal entity, their agents or servants or
13 any person or legal entity who aids therein which is detrimental to the safety, welfare or
14 convenience of the inhabitants of the City or a part thereof, or any act or condition so
15 designated by statute or ordinance.

16 C. "Owner" is the person or entity whose name is listed on the last deed
17 recorded at the Office of the Recorder of Deeds, on the tax records at the Office of the
18 Assessor, or person in care, custody or control of said premises.

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1 **D. "Domestic Violence" means physical abuse, harassment, intimidation**
2 **of a dependent, interference with personal liberty, or willful deprivation by a**
3 **current or former spouse, significant other, or paramour.**

4 **E. "Stalking" means first-degree or second-degree stalking as defined in**
5 **Chapter 565 of the Revised Statutes of Missouri.**

6
7 **SECTION TWO.** Section Two of Ordinance 69730, approved April 18, 2014, and
8 codified at Section 15.42.020 of the Revised Code of the City of St. Louis, is hereby
9 amended to read as follows:

10 Public Nuisance.

11 A public nuisance exists when the premises are used for one or more of the
12 following incidents within the previous 12 months:

13 A. The illegal sale, manufacture, storing, possession, distribution or use of
14 narcotics or other controlled substances or precursors;

15 B. The illegal sale, manufacture, storing, possession, distribution or use of
16 drug paraphernalia or precursors;

17 C. Illegal sale, storing, possession, use or distribution of a firearm(s),
18 weapons or explosive devices;

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1 A public nuisance exists when the premises are used for two or more of the
2 following incidents within the previous 12 months:

- 3 A. Prostitution;
- 4 B. Illegal gambling;
- 5 C. The illegal sale, distribution or consumption of alcoholic beverages;
- 6 D. Violation of municipal, state or federal business licensing regulations;
- 7 E. Commission of any offense which is punishable by imprisonment of
8 ninety days or more;

9 F. Maintaining or permitting a condition or engaging in an activity which
10 unreasonably annoys, injures, or endangers the safety, health, morals, or repose of any
11 inhabitants of the City of St. Louis or a part thereof;

12 G. Making a false report of a violation of the law to any police officer or
13 other officer of the law in person, or from any police alarm or call box, or over the
14 telephone or radio, or by improper use of Emergency 911, or by any other means of
15 communication;

16 H. Any other condition or activity that may constitute a felony, misdemeanor
17 or ordinance violation under federal, state, or municipal law which is detrimental to the
18 safety, welfare or convenience of the inhabitants of the City of St. Louis or a part thereof.

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1 Notwithstanding any other provisions in this Section, a public nuisance does
2 not exist solely:

3 A. As a result of calls to law enforcement officers or agencies for
4 assistance in regards to alleged domestic violence or stalking;

5 B. Due to incidents of domestic violence or stalking.

6 Nothing with respect to this Section limits or prohibits the imposition of
7 penalties against a perpetrator of domestic violence or stalking.

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1 **SECTION THREE.** Section Five of Ordinance 69730, approved April 18, 2014, and
2 codified at Section 15.42.050 of the Revised Code of the City of St. Louis, is hereby
3 amended to read as follows:

4 Administrative Hearings.

5 A. In addition to the issuance of a summons under Section 15.42.040, the
6 Director of Public Safety may initiate an Administrative Hearing in order to abate a
7 public nuisance as defined in Sections 15.42.010 and 15.42.020 of this chapter.

8 B. When an owner of rental residential or commercial property has failed to
9 abate the nuisance within 30 days of the notice or an owner occupant has failed to
10 immediately abate the nuisance upon receipt of the notice, the Director of Public Safety
11 or his designee may issue a hearing notice to the owner of the subject premises. The
12 hearing notice shall be in writing and either sent by first class United States mail or
13 served in person, not less than twenty (20) days prior to the date of such hearing. A copy
14 of the hearing notice shall also be posted in a prominent place on the premises. A
15 **hearing notice shall not be issued when the calls to law enforcement are solely for**
16 **assistance in regards to alleged domestic violence or stalking.**

17 C. An attorney who appears on behalf of any owner must file a written
18 appearance with the Director of the Department of Public Safety.

19 D. The case for the City shall be presented by the City Counselor.

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1 E. The Administrative Hearing Officer may grant continuances only upon a
2 finding of good cause.

3 F. All testimony shall be given under oath or affirmation.

4 G. The Administrative Hearing Officer may issue subpoenas to secure the
5 attendance and testimony of relevant witnesses and the production of relevant documents.

6 H. RSMo 536.070 shall control the rules of evidence, objections, witnesses,
7 judicial notice, affidavits as evidence, and the transcript requirements of the
8 administrative hearing.

9 I. No violation may be established except upon proof by a preponderance of
10 the evidence; provided, however, that a violation notice, or a copy thereof, issued and
11 signed in accordance with Section 15.42.030 of this chapter shall be prima facie evidence
12 of the correctness of the facts specified therein.

13 J. Upon conclusion of a hearing, the Administrative Hearing Officer shall
14 issue Findings of Fact, Conclusions of Law and Order of the Hearing Officer ("order")
15 setting forth the facts and law which support his/her nuisance determination.

16 K. In the event that a nuisance is found to exist, the Administrative Hearing
17 Officer shall require that the owner implement reasonable measures designed to prevent
18 the recurrence of the nuisance activity. Those measures may include but, are not limited
19 to, making security improvements to the premises, hiring of licensed and insured security

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1 personnel, appointment of a receiver, the initiation and execution of eviction proceedings
2 against tenants who engage in the nuisance behavior, or the closing and boarding of the
3 premises for a period not to exceed one year.

4 L. The order shall inform the respondent of his or her right to seek judicial
5 review of the Hearing Officer's final determination, as provided in RSMo 536.100 to
6 536.140.

7 M. The record of all hearings before an Administrative Hearing Officer shall
8 include: (i) a record of the testimony presented at the hearing, which may be made by
9 tape recording, digital recording or other appropriate means; (ii) all exhibits submitted as
10 evidence at the hearing; and (iii) a copy of the order.

11

12 **SECTION FOUR. Severability Clause.** The provisions of this ordinance shall be
13 severable. In the event that any provision of this ordinance is found by a court of
14 competent jurisdiction to be unconstitutional, the remaining provisions of this ordinance
15 are valid unless the court finds the valid provisions of this ordinance are so essentially
16 and inseparably connected with, and so dependent upon, the void provision that it cannot
17 be presumed that the Board of Aldermen would have enacted the valid provisions without
18 the void ones or unless the Court finds that the valid provisions, standing alone, are
19 incomplete and incapable of being executed in accordance with the legislative intent.

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1

2 **SECTION FIVE.** Emergency Clause. This being an ordinance for the preservation of
3 public peace, health and safety, it is hereby declared to be an emergency measure within
4 the meanings of Sections 19 and 20 of article IV of the Charter of the City of St. Louis
5 and therefore shall become effective immediately upon its passage and approval by the
6 Mayor.

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Tina G. Oertl
Clerk, Board of Aldermen

[Signature]
President, Board of Aldermen

Francis R. May
Mayor

Approved Date November 10, 2016
Disapproved

Truly Engrossed and Enrolled

Maureen E. Davis
Chairman