

St. Louis City Ordinance 63836

FLOOR SUBSTITUTE

BOARD BILL NO. [96] 54

INTRODUCED BY ALDERMAN MARTIE J. ABOUSSIE, CRAIG SCHMID ,
MARGE VINING , STEPHEN GREGALI , GREGORY CARTER

An ordinance pertaining to nuisance activity related to residential and commercial properties; establishing guidelines and procedures for the abatement of nuisance activities, containing definitions, and containing a severability clause, a penalty clause, and an emergency clause.

WHEREAS, there are residential and commercial properties located in the City of St. Louis which by the use and conduct of the inhabitants of said properties result in a general deterioration of the abutting property and the neighborhood in general; and

WHEREAS, the occupants and/or visitors of said properties often commit violations of city and state law; and

WHEREAS, said violations often continue even after interdiction by police and city officials; and

WHEREAS, some owners of property have the inability to control or fail to control or fail or refuse to take appropriate actions to prevent the behavior of the occupants and/or visitors; and

WHEREAS, these continued activities interfere with the general public in the areas of quality of neighborhood life and environment, diminution of property values, safety of the public upon public streets, sidewalks and alleys; and

WHEREAS, the Board of Aldermen finds it in the public interest to authorize and empower the appropriate city officials to impose sanctions and penalties for such nuisances as an additional and appropriate method of law enforcement in response to the apparent proliferation of these public nuisances without prejudice to the use of any other procedures and remedies available under any other law;

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

SECTION ONE.

For the purpose of this ordinance, a nuisance shall consist of any activity which is of an ongoing and continuous nature and constitutes a substantial interference to the health, safety, welfare, or convenience of the inhabitants of the city of St. Louis, or any part thereof.

SECTION TWO

A. The St. Louis Metropolitan Police shall notify the Health Commissioner that there has been an arrest or a summons issued for violations of city ordinance or state statute relating to any of the following activities:

1. Peace disturbance as prohibited in Section 15.46.030 and Chapter 15.50 of the Revised Code of the City of St. Louis;
2. Lewd and lascivious behavior as prohibited by Chapter 15.30.010 of the Revised Code of the City of St. Louis;
3. Maintaining a house of prostitution as prohibited in Chapter 15.34.080 of the Revised Code of the City of St. Louis.
4. Noise as prohibited in Chapter 15.50 of the Revised Code of the Revised Code of the City of St. Louis.
5. The use of fire arms as prohibited in Chapter 15.132 and 15.134 of the Revised Code of the City of St. Louis.

The Health Commissioner shall notify the owner of the property through the issuance of a WARNING NOTICE of the violations. Said notice shall advise the owner that if an additional violation, as enumerated in this Section, occurs within sixty days from the date of said WARNING NOTICE, the Health Commissioner shall issue to the owner a FINAL NOTICE TO ABATE. If an third violation, occurs subsequent to the FINAL NOTICE TO ABATE, and within sixty days of the original WARNING NOTICE, the Health Commissioner shall give notice of a hearing for the purpose of determining whether a nuisance exists, and if so, then to determine appropriate remedies for abatement and enforcement.

SECTION THREE.

A. As a complete alternative to the procedure set forth in Section Two of this Ordinance and notwithstanding any and all other methods provided by law or Charter, the procedure set forth in subsections B through D herein may be employed.

B. The Health Commissioner, upon receipt of a petition signed by a majority of the persons owning real property, or a majority of the registered voters occupying property, within a prescribed petition circle drawn with a radius of Three Hundred Feet (300) plus one half (½) of the width of the property alleged to be a public nuisance from the center of the front of said property projected to the street, alleging that the activity permitted by the occupants and/or owners of said property, as factually set out in said petition, is of an ongoing and continuous nature and constitutes a substantial interference to the health, welfare, safety, and convenience of the subscribers to the petition, shall hold a public hearing based on said petition.

C. The format for the petition shall be approved by the Health Commissioner and shall specifically state the type and nature of the activity which is alleged to be of an ongoing and continuous nature and constituting a substantial interference to the health, welfare, safety, and convenience to the petition's subscribers.

D. The Excise Commissioner is hereby designated to review the petition filed in each proceeding and to verify the signatures appearing thereon with the property owners whose names appear on the Assessor's records, or the registered voters whose names appear on the Board of Election Commissioner's records, as the case may be, and whether such persons constitute a majority of property owners or registered voters in said petition circle. A report thereof shall be made to the Health Commissioner prior to the setting of a hearing date on said petition. A hearing date shall not be set unless the signatures of a majority of the property owners or a majority of the registered voters in the petition circle are verified. Failure of a petition to contain sufficient signatures under the requirements of subsection (B) herein, shall not prohibit the refiling a new petition regarding the same premise.

SECTION FOUR

A. The Health Commissioner shall set a reasonable time for the hearing to determine whether a nuisance exists and if so determined, then to recommend appropriate remedies for abatement and enforcement. Not later than ten working days (10) prior to said hearing, the Health Commissioner shall cause to be served a notice of said hearing and a copy of the petition, when applicable, on the legal owner or owners of said property, as determined by the records of ownership maintained by the Office of the Assessor; the occupants of said premise, if they are different from the legal owner; and the person or persons designated to received said notice on behalf of the petitioners. Service

of said notice by Certified mail shall be deemed sufficient for the purposes of this section.

B. The hearing shall be conducted at the time and place set forth in the notice. The hearing officer shall be appointed by the Director of Public Safety and shall be a resident of the City of St. Louis and shall have been licensed to practice law in the State of Missouri for a period of at least two years. The hearing officer shall commence a hearing for the purpose of determining whether a public nuisance exists under the provisions of this ordinance. All interested parties, including owners, lessees, mortgagors, tenants and neighbors, and police officers may attend the hearing and present testimony. The notice of the hearing shall include the purpose of the hearing, the date and time of the hearing, and the location of the hearing. The hearing officer shall take testimony under oath pertaining to all relevant matters. The hearing may be continued, if necessary, for not more than 30 days, to conclude the investigation or for good cause shown.

C. At the conclusion of the hearing the hearing officer shall make a recommendation finding that the activity occurring at the subject property is not a public nuisance, and no further action is required; or that the activity occurring at the subject property does constitute a public nuisance, in which case the hearing officer shall recommend an appropriate means to abate the activity. If deemed appropriate and necessary to abate the nuisance activity, the hearing officer may recommend that the occupancy of the property be prohibited to the extent necessary to abate the nuisance but for a time period of not less than thirty days nor more than one year. The recommendation of the hearing officer shall be immediately presented to the Health Commissioner who shall issue an appropriate order. A copy of said Order shall be published in the City Journal and sent by Certified Mail to the owner of the involved property; the occupant(s) of the involved property, if different from the owner; and the designated representative of the petitioners. Any person adversely affected by said Order shall have a right of Judicial Review as provided by Section 536.100 R.S. Mo. 1986, as supplemented.

SECTION FIVE. In determining whether the operation of a property is detrimental to the neighborhood in which the property is located, and therefore constitutes a public nuisance, the hearing officer shall consider the following factors, giving such weight thereto as he deems appropriate:

A) The physical characteristics of the neighborhood in which the alleged nuisance property is located, with particular consideration being given to the

proximity of the property to residential property, parks, churches, schools, and playgrounds;

B) Littering, as prohibited in Section 11.18.060 of the Revised Code of the City of St. Louis, committed by owner, occupant, or persons frequenting the alleged nuisance property;

C) Drinking of alcoholic beverages in public, as prohibited in Section 14.05.010 of the Revised Code of the City of St. Louis, by the owner, occupant, or persons frequenting the alleged nuisance property;

D) Lewd and indecent conduct as prohibited in Chapter 15.30.010 of the Revised Code of the City of St. Louis, including but not limited to public urination, exhibited by the owner, occupant, or persons frequenting the alleged nuisance property, whether such behavior occurs on the property or in the immediate vicinity thereof;

E) Commission of crimes, as prohibited by Federal or State statute, upon or in the immediate vicinity of a premise by the owner, occupant, or persons frequenting the alleged nuisance property;

F) Sale or use of illegal drugs, as prohibited by Federal or State statute or City ordinance, upon or in the immediate vicinity of the alleged nuisance property by the owner, occupant, or persons frequenting the property;

G) Harassing or intimidating behavior, as prohibited by Chapter 15.46 of the Revised Code of the City of St. Louis, exhibited by the owner, occupant, or persons frequenting or congregating about the alleged nuisance property toward persons living in the neighborhood in which the property is located or toward persons passing by the property;

H) Noise, as prohibited in Chapter 15.50 of the Revised Code of the City of St. Louis, associated with or caused by the owner, occupant, or persons frequenting the alleged nuisance property;

I) Street or sidewalk congestion associated with or caused by the owner, occupant, or persons frequenting the alleged nuisance property;

J) Any other activity deemed relevant by the hearing officer, to the determination of whether said activity is detrimental to the neighborhood in which the alleged nuisance property is located.

SECTION SIX. At any hearing convened under Section Four of this ordinance, proof that the required notices were properly sent to the owner or occupant of the property, under the provisions of Section Eleven herein, shall be prima facie evidence of knowledge on the part of the owner or occupant of the property of the alleged nuisance activity. For purposes of this ordinance, a person shall be considered to frequent a property if he lives or works at, or visits the property or if he loiters about the immediate vicinity of the property but would not do so except for the existence of the property.

SECTION SEVEN. Any person employed, or contracted with, for the abatement of a nuisance as ordered under the provisions of this ordinance, and any agent or employee of such person, shall have the right of entry for that purpose into and upon any property.

SECTION EIGHT. It shall be the duty of the police department of the City of St. Louis to assist the Health Commissioner and his officers and employees, or the Director of Public Safety and his officers and employees, in the discharge of their duties, as may be required under this ordinance, whenever called upon to do so.

SECTION NINE.

A) It shall be a violation of this ordinance for the owner, his agent, or the occupant of any residential or commercial property to fail to obey an order to abate a nuisance under the provisions of this ordinance.

B) It shall be a violation of this ordinance to interfere with any entry permitted under Section Seven herein or any entry by any police officer, any officer or agent or employee of the City of St. Louis for the purpose of abatement of any nuisance, as ordered under the provisions of this ordinance.

C) It shall be a violation of this ordinance for any person to use or occupy or to permit any other person to use or occupy any property ordered closed pursuant to this ordinance.

D) It shall be a violation of this ordinance for any person to mutilate or remove any order posted under the provisions of this ordinance.

SECTION TEN. Nothing in this ordinance shall be interpreted to supersede or limit in any manner the authority of the Health Commissioner or the Building Commissioner to condemn property under the authority of any provision of the Revised Code of the City of St. Louis.

SECTION ELEVEN. All notices required under this ordinance shall be sent, by certified mail, to the owner of the property, the occupants of the property, the mortgagor, if shown on the recorder of deeds records, and posted on the subject property in a conspicuous place. The posting of the property shall be done by the City Marshall.

SECTION TWELVE. Closure of any property pursuant to this ordinance shall not constitute an act of possession, ownership or control by the City of St. Louis of the closed property.

SECTION THIRTEEN. Nothing contained in this ordinance shall relieve the owner of any property from complying with all other ordinances that relate to property, fire or health codes or any other ordinance that regulates the condition or use of property.

SECTION FOURTEEN. PENALTIES

A) Every violation of this ordinance shall be punishable by a fine of not less than \$300.00 and/or- 90 days in jail.

B) In lieu of a fine the judge may require the defendant to perform not less than 50 hours of community service.

SECTION FIFTEEN. SEVERABILITY CLAUSE.

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

SECTION SIXTEEN. 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.

Legislative History

1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND	VOTE
04/26/96	04/26/96	PS			
2ND READING	FLOOR AMEND	FLOOR SUB	VOTE	PERFECTN	PASSAGE
06/14/96		06/28/96		06/28/96	07/03/96
ORDINANCE	VETOED		VETO OVR		EFFECTIVE
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