

St. Louis City Ordinance 64693

FLOOR SUBSTITUTE

BOARD BILL NO. [99] 20

INTRODUCED BY ALDERMAN GREGORY CARTER

An ordinance pertaining to public nuisances; repealing Ordinance 63836, approved on July 3, 1996, and Ordinance 62765, approved on November 24, 1992; and enacting in lieu thereof a new ordinance establishing a procedure for the abatement of public safety nuisances, containing a penalty clause and an emergency clause.

WHEREAS, unkept, unsafe, unsanitary and otherwise improperly or illegally maintained premises and structures within the City of St. Louis adversely effect the value, utility and habitability of property within the entire City and specifically cause substantial damage to adjoining and nearby property; and WHEREAS, unkept, unsightly and dangerous properties adversely affect the habitability and economic well being of the City as a whole; and WHEREAS, Section 67.400 RSMo. authorizes the City of St. Louis to enact ordinances to provide for vacation and the mandatory repair and maintenance of buildings or structures which are detrimental to the safety and welfare of the residents of St. Louis and declared to be a public nuisance;

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

SECTION ONE. Ordinance 63836, approved on July 3, 1996 and Ordinance 62765, approved on November 24, 1992 are repealed and in lieu thereof a new ordinance is hereby enacted a new ordinance to read as follows.

SECTION TWO. Every continuing act or physical condition, made, permitted, allowed or continued on any property, public or private or within any building or structure, by any person or legal entity, their agents or servants or any persona or legal entity who aids therein, which is significantly detrimental to the safety of the inhabitants of the City or a substantial part thereof, or any act or condition specifically set forth in this ordinance or any act or condition so designated by statute or ordinance, shall be deemed a public safety nuisance and is hereby prohibited.

SECTION THREE. Nuisances enumerated.

In addition to any act or condition which may constitute a public nuisance under Section Two of this ordinance, the following acts and conditions are deemed to be public nuisances:

1. The conducting or engaging in business at premises within the City of St. Louis for the substantial or principal purpose of vending or trading in sexually obscene materials, at wholesale or retail, or the giving of sexually obscene live exhibitions or performance, as defined in and prohibited by the laws of the State of Missouri or the City of St. Louis.
2. Any building, house, room or other structure, maintained or used for the purposes of lewdness, assignation or prostitution;
3. All vacant, unused, or unoccupied buildings or structures within the City, which are allowed to become or remain open to entrance by unauthorized persons or the general public, because of broken, missing or open windows, doors or other openings, so that the same may be used by any individual in a manner detrimental to the safety and welfare of the inhabitants of the City;
4. Any room, building, structure or portion thereof which is used for the use, possession, or sale of any controlled substances which is prohibited by Federal or State statute or City ordinance;
5. Any building, structure or lot within Zoning Districts A through H which is used for the purpose of operating an unlicensed business repairing motor vehicles.

SECTION FOUR. Complaint of public safety nuisance.

The existence of an alleged public safety nuisance as defined in Sections Two and Three of this ordinance may be reported to the Public Safety Director (◆Director◆) or his designee by any resident or group of residents effected by such alleged public safety nuisance or by any police officer, Neighborhood Stabilization Officer or Alderman.

Whenever the Director or his designee receives a report of an alleged public safety nuisance, as defined in this ordinance, from any police officer, Neighborhood Stabilization Officer or Alderman, or from three or more unrelated residents of the City of St. Louis, the Director or his designee shall determine whether such public safety nuisance exists.

It shall be a violation of this ordinance for any person to report the existence of an alleged public safety nuisance solely for the purpose of harassing or intimidating the owner and/or residents of such property.

SECTION FIVE: Abatement without notice

1. Whenever the Director determines that a public nuisance, as defined herein, exists on real property situated in the City and that the public safety is in immediate danger, then summary abatement procedures, as determined by the Director, shall be implemented to remove or abate the nuisance. Summary abatement costs shall be certified to the Comptroller who shall issue a special assessment against the property owner to be prepared and collected by the Collector of Revenue.

2. When summary abatement of a public safety nuisance is authorized, notice to the owner, agent or occupant of the property is not required prior to its abatement. Following summary abatement, the Director shall cause to be posted on the property, if possible, a notice describing the action taken to abate the nuisance on such property. A similar notice shall be mailed to the owner of the property as determined from the record of ownership maintained in the office of the Assessor

SECTION SIX. Abatement with notice.

Whenever the Director determines that a public nuisance, as defined herein, exists on real property situated in the City and further determines that such public safety nuisance does not pose an immediate danger to public safety, the Director shall notify the property owner(s) and occupant(s) by mail of the existence of the nuisance and direct that the nuisance be abated in the manner deemed appropriate by the Director within a reasonable period of time to be specified in the notice. Such a notice shall be served by personal service or by registered or certified mail. When an attempt has been made, but service has not been effectuated by personal service or by registered or certified mail, service shall be by posting on the subject property in a conspicuous location. The Director shall promptly notify the City Counselor and the Alderman of the ward in which the property, which is the subject of the complaint, is located.

SECTION SEVEN. The City Counselor shall have discretion over what actions are sufficient to constitute the commencement of nuisance abatement of the property which is the subject of the complaint. The City Counselor shall be guided by such factors as:

- A. Expedient and continuous work;
- B. Abatement costs; and
- C. Impact on environment or public.

SECTION EIGHT - HEARING AND APPEAL If the public safety nuisance has not been abated within the time allowed by the Director, or any extension of time granted by the Director for such abatement, the Director may request that a hearing be held before the Board of Building Appeals or a hearing officer designated by such Board in order to obtain an order of abatement.

The Director shall send written notice to the owner(s) and occupant(s) of the subject property of the nuisance abatement hearing. Said written notice shall set forth the date, time and place for the hearing and advise the owner and occupant that they have the right to appear and be heard on the following issues:

- a. Whether a nuisance in fact exists on the property; and
- b. Whether the recommendation of the Director to eliminate the public safety nuisance is appropriate. The Director shall cause the written notice to be served, by personal service or by registered or certified mail, to the owner and occupant of the subject property at least ten (10) days prior to the hearing date. Failure of any person to receive such notice shall not affect the validity of any action taken by the Board of Building Appeals.

At the time and place set forth in the notice of hearing, the Board of Building Appeals or the designated hearing officer shall conduct a hearing on the alleged public safety nuisance. The hearing officer shall receive testimony and other evidence from the Director or his representative, the owner and/or occupant of the subject property and all other interested persons relative to the alleged existence of the public safety nuisance and the method of abatement proposed by the Director. At the conclusion of the public hearing, the hearing officer shall issue an order of abatement if such hearing officer finds, based upon all of the evidence presented at the hearing, a public safety nuisance does exist on the property. The order of abatement shall set forth:

- a. A description of the nuisance.

b. The manner and time in which the nuisance is to be abated.

c. A statement that if the nuisance is not abated in the manner and within the time limit set forth in the order, the City will cause the nuisance to be abated and make the cost of the nuisance abatement a special assessment against the property to be collected at the same time and in the same manner as real property taxes, and that such assessment shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for real property taxes. The decision of the hearing officer on the existence and abatement of a nuisance shall be final and conclusive. The decision of the hearing officer may be appealed to the Circuit Court by any interested party under the provisions of Chapter 536 of the Revised Statutes of the State of Missouri. In determining whether the activity or condition of a property is a public safety nuisance, the hearing officer may consider the following factors, giving such weight thereto as deemed 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. Should the evidence support a finding that the building, structure or condition constitutes a public safety nuisance, the hearing officer shall issue an order making specific findings of facts which shows the building, structure or condition to be a public safety nuisance, identifying the party or parties responsible for abating such nuisance and ordering the manner in which the nuisance is to be abated.

SECTION NINE. The owner of the premises, location or structure at the time an order of the hearing officer is issued, shall be responsible for complying with that order, and liable for any costs incurred by the City therewith, notwithstanding the fact that he conveys his interests in the property to any other person or persons after such order was issued and served.

SECTION TEN. Failure to comply with an order to abate a public safety nuisance under this ordinance shall be a violation of this ordinance and any person who fails to comply with such an order shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each day the court finds such person to be in noncompliance. In addition to a fine, the court may sentence such person to not more than ninety (90) days imprisonment.

SECTION ELEVEN. The Director or his designee shall have the authority to enter upon the property and abate the public safety nuisance found thereon if the hearing officer finds that a public safety nuisance exists in violation of this ordinance and the responsible party fails to comply with the order of the hearing officer to abate a nuisance within a reasonable time. In abating such

nuisance, the City may go to whatever extent may be necessary to complete the abatement of the public safety nuisance.

SECTION TWELVE. In abating a public safety nuisance, the Director or his designee may call upon any of the City departments or divisions for whatever assistance shall be deemed necessary or may by private contract cause the abatement of the public safety nuisance.

SECTION THIRTEEN. The Director shall, after completing the removal and abatement of a public safety nuisance, file a statement of costs with the Comptroller. The Comptroller shall certify costs and issue a special assessment to be collected by the Collector of Revenue.

SECTION FOURTEEN. The City may seek to recover the cost of any demolition or repair required to abate a public nuisance prior to the occurrence of such action. Upon issuance of an order by the Building Commissioner that a public safety nuisance exists and that building or structure must be demolished or repaired in order to abate the nuisance, then the Building Commissioner may solicit no less than two independent bids for such demolition or repair work, provided that the owner of the property in questions has been given the opportunity to contest such order. The amount of the lowest bid, including offset for salvage value, if any, plus reasonable anticipated costs of collection, including attorneys' fees, shall be certified to the Comptroller who shall cause a special assessment to be issued against the property owner to be prepared and collected by the Collector of Revenue. The Comptroller shall discharge the special assessment upon documentation by the property owner of the completion of the ordered repair or demolition work. Upon determination by the Comptroller that a public benefit is secured prior to payment of the special assessment, the Comptroller may discharge the special assessment upon the transfer of the property. The payment of the special assessment shall be held in an interest-bearing account. Upon full payment of the special assessment, the Building Commissioner shall, within one hundred twenty days thereafter, cause the ordered work to be completed, and certify the actual costs thereof, including the cost of special assessment collection and attorneys' fees, to the Comptroller who shall, if the actual cost differs from the paid amount by greater than two percent of the paid amount, refund the excess payment, if any, to the payor, or if the actual amount is greater, cause a special assessment or assessment for the difference against the property to be prepared and collected by the Collector of Revenue. If the Building Commissioner shall not, within one hundred twenty days after full payment, cause the ordered work to be completed, then the full amount of the payment, plus interest, shall be repaid to the payor. At the request of the taxpayer the special assessment for the

difference may be paid in installments over a period of not more than ten years. The special assessment for the difference from the date of its issuance shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid.

SECTION FIFTEEN. Nothing in this Ordinance shall be construed as abandoning or limiting the City's right to exercise all legal remedies in abating public safety nuisances or the right by civil action to recover the expense incurred in abating such nuisance.

SECTION SIXTEEN. 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 SEVENTEEN. 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
04/30/99	04/30/99	PS	06/11/99	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
06/11/99		06/18/99	06/18/99	07/01/99

ORDINANCE	VETOED	VETO OVR
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