

Section 16-316 Legislative findings.

The city council makes the following legislative findings:

- (1) Chronic unlawful activity on property adversely affects the peace and safety of neighboring residents and diminishes the quality of life in the neighborhood.
- (2) Prosecution of unlawful activity on property is not always an effective way to preserve a desirable quality of life in the neighborhood.
- (3) It is in the public interest for property owners to be vigilant in preventing unlawful activity from occurring on their property.
- (4) It is in the public interest to make property owners responsible for the use of their property by tenants, occupants and visitors.
- (5) The purpose of this article is to maintain a desirable quality of life in Columbia by holding property owners responsible for the use of their property.

(Ord. No. 19288, §1, 11-6-06)

(Ord. 19288, Added, 11/06/2006)

Section 16-317 Definitions and rules of construction.

The following definitions and rules of construction apply to this article:

“Chief of police” and “chief” include any designee of the chief of police.

“Chronic nuisance property” means residential property on which or within 200 feet of which any person associated with the property has engaged in three or more nuisance activities during any four (4) month period.

“Nuisance activity” means any of the following unlawful conduct:

- (1) Harassment under section 565.090 RSMo or section 16-143 of this Code;
- (2) Assault under section 565.050 RSMo through section 565.070 RSMo or section 16-141 of this Code;
- (3) Any sexual offense under Chapter 566 RSMo;
- (4) Any prostitution related offense under Chapter 567 RSMo;
- (5) Any violation of the liquor control law, Chapter 311 RSMo or the alcoholic beverages ordinance, chapter 4 of this Code;

- (6) Trespass under section 569.140 RSMo or section 16-156 of this Code;
- (7) Any stealing or related offense under Chapter 570 RSMo or section 16-171 of this Code;
- (8) Any arson or related offense under section 569.040 through 569.065 RSMo or section 16-151 or 16-152 of this Code;
- (9) Any violation of the "Comprehensive Drug Control Act of 1989" in chapter 195 RSMo or sections 16-253 through 16-255 of this Code;
- (10) Gambling under Chapter 572 RSMo;
- (11) Discharge of a firearm under section 16-234 of this Code;
- (12) Possession of an open container of alcoholic beverage under section 16-185 of this Code;
- (13) Indecent exposure under section 16-132 of this Code;
- (14) Peace disturbance by fighting under section 16-176.1 of this Code;
- (15) Unlawful use of weapons and armed criminal action under Chapter 571 RSMo and brandishing a weapon under section 16-246 of this Code;
- (16) Any noise violation under section 16-258 or section 16-259 of this Code;

"Person associated with the property" means any person who is lawfully present on the property including any owner, tenant, occupant, guest or invitee.

"Property" means any lot or other unit of real property.

"Property owner" means a person having a fee interest in real property.

"Property owner's agent" means a person authorized by the property owner to manage the property.

"Residential property" means any property containing a single family structure, a duplex, an apartment building, a manufactured or mobile home, a boarding house, a group home, a fraternity or sorority house, or a mixed use structure that includes a residential living unit.

(Ord. No. 19288, §1, 11-6-06)

(Ord. 19288, Added, 11/06/2006)

Section 16-318 Police chief determination of chronic nuisance property.

(a) Before any property is determined to be a chronic nuisance property, the chief of police must notify the property owner in writing that at least two nuisance activities have occurred on or within two hundred (200) feet of the property and that the property is in danger of becoming a chronic nuisance property. The notice shall identify the property and describe the alleged nuisance activities in detail including the dates on which the alleged nuisance activities occurred. The notice shall instruct the property owner to respond to the notice by either disputing the allegations of nuisance activities or proposing a plan to abate the nuisance activities. The notice shall be served on the property owner by first class and certified mail or by personal service in the same manner as legal process is served under any Missouri statute or court rule.

(b) The chief of police shall meet with any property owner who requests a meeting to dispute an allegation of nuisance activity or to discuss a plan to abate the nuisance activities. The property owner shall be notified of the position of the chief of police on all disputed allegations of nuisance activity within thirty (30) days after the meeting.

(c) If, after a property owner has received notice under subsection (a), the chief of police determines that an additional nuisance activity has occurred on or within two hundred (200) feet of the property causing the property to become a chronic nuisance property, the chief of police shall give the property owner written notice of the determination. The notice shall identify the property and describe in detail the alleged nuisance activities that cause a property to be a chronic nuisance property. The notice shall be served on the property owner by first class and certified mail or by personal service in the same manner as legal process is served under any Missouri statute or court rule. A notice mailed by first class mail shall be presumed received three (3) days after it is mailed. The property owner shall have ten (10) days after receipt of the notice to arrange a meeting with the chief of police to dispute the determination of chronic nuisance property or persuade the chief of police to defer submitting the matter to the city manager for abatement or to the city prosecutor for prosecution.

(d) The chief of police shall meet with any property owner who requests a meeting to dispute or discuss the determination of chronic nuisance property.

(e) If, after the property owner has been given the opportunity to meet with the chief of police, the chief still believes that the property is a chronic nuisance property, the chief may submit a report on the matter to the city manager for abatement under section 16-319 or to the city prosecutor for prosecution under section 16-321. The chief of police may defer referring a chronic nuisance property to the city manager or the prosecutor if the property owner has presented an abatement plan satisfactory to the chief of police and has made good faith efforts to implement the plan.

(f) Copies of the notices required under subsections (a) and (c) shall be sent to any active neighborhood association and any active neighborhood watch group for the neighborhood or watch area in which the property is located.

(g) The provisions of this section pertaining to property owners apply equally to property owners' agents.

(Ord. No. 19288, §1, 11-6-06)

(Ord. 19288, Added, 11/08/2006)

Section 16-319 Administrative process for abating chronic nuisance property.

(a) If, after reviewing the police chief's chronic nuisance property report, the city manager determines that the proper procedures have been followed and that there is reason to believe that the property may be a chronic nuisance property, the city manager may authorize the city counselor to initiate an administrative action to abate the nuisance. The administrative action shall follow the contested case provisions of Chapter 536, RSMo. The owners of the property and any tenants shall be necessary parties to the action. The city manager or the manager's designee shall serve as hearing officer.

(b) If, after considering all evidence, the hearing officer determines that the property is a chronic nuisance property and that the procedures of section 16-318 were followed, the hearing officer may order appropriate abatement. Abatement may include closure of the property for up to one (1) year, physically securing the property, suspension of utility services during the period of closure and revocation of a certificate of compliance for rental property. If there is more than one (1) residential unit on the property, the hearing officer shall close only the unit or units whose occupants, guests or invitees have engaged in the nuisance activities. The hearing officer shall consider the following factors in determining whether to close a chronic nuisance property:

(1) The level of cooperation of the property owner and occupants in attempting to prevent nuisance activities;

(2) The nature and extent of the nuisance activities;

(3) The impact of the nuisance activities on neighbors and others; and

(4) Any actions taken to avoid further nuisance activities connected with the property.

(c) If an abatement order is not complied with, the hearing officer may authorize the abatement of the chronic nuisance property by city employees or by persons under contract with the city. No person shall enter private property to enforce an abatement order unless the person in possession of the property has consented to the entry or unless the municipal judge has issued a warrant for the entry. The chief of police shall certify the cost of abatement under this subsection to the city clerk. The cost shall include administrative costs as well as the actual

cost of abating the nuisance. The city clerk shall cause a special tax bill against the property to be prepared in the amount of the abatement cost. The tax bill from the date of its issuance shall be a lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity. No clerical error or informality in the tax bill or in the proceedings leading up to the issuance of the tax bill shall be a defense in an action to collect the tax bill. Tax bills issued under this section, if not paid when due, shall bear interest at the rate of nine percent (9%) per year. The cost of abatement shall also constitute a personal obligation of any person who failed to comply with the order of the hearing officer.

(Ord. No. 19288, §1, 11-6-06)

(Ord. 19288, Added, 11/06/2006)

Section 16-320 Effect of property conveyance.

(a) When title to property is conveyed, any nuisance activity that occurred before the conveyance may not be used to establish the property as a chronic nuisance property unless the reason for the conveyance was to avoid a determination that the property was a chronic nuisance property.

(b) There is a rebuttable presumption that a reason for the conveyance of property was to avoid a determination that the property was a chronic nuisance property if:

- (1) The property was conveyed for less than fair market value;
- (2) The property was conveyed to an entity controlled by a person conveying the property;
- (3) The property was conveyed to a relative of a person conveying the property.

(Ord. No. 19288, §1, 11-6-06)

(Ord. 19288, Added, 11/06/2006)

Section 16-321 Chronic nuisance property prohibited.

(a) It shall be unlawful for a property owner or a property owner's agent to cause, permit or allow the property to become a chronic nuisance property.

(b) The procedures set forth in section 16-318 must be followed before any property owner or property owner's agent is prosecuted for a violation of this section. No person shall be both prosecuted under this section and made a party to an administrative action under section 16-319 based on the same facts.

(Ord. No. 19288, §1, 11-6-06)

(Ord. 19288, Added, 11/06/2006)

Section 16-322 Other unlawful acts.

It shall be unlawful for any person to:

- (1) Fail to obey an abatement order issued under this article;
- (2) Interfere with any police officer, agent or employee of the city who is enforcing an abatement order issued under this article; or
- (3) Occupy or use or allow another to occupy or use property that has been closed by an abatement order issued under this article.

(Ord. No. 19288, §1, 11-6-06)

(Ord. 19288, Added, 11/06/2006)

Section 16-323 Defenses.

(a) In any prosecution or abatement action under this article, it shall be an affirmative defense that the property owner has evicted or is diligently attempting to evict all tenants and occupants of the property that committed each alleged nuisance activity that caused the property to become a chronic nuisance property.

(b) In any prosecution or abatement action under this article, it shall be an affirmative defense that the property owner has diligently pursued reasonable means to avoid a recurrence of violations similar to the alleged nuisance activities that caused the property to become a chronic nuisance property.

(Ord. No. 19288, §1, 11-6-06)

(Ord. 19288, Added, 11/06/2006)

Section 16-324 Penalty.

(a) Any person who violates section 16-321 shall, upon conviction, be punished for a first offense by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000.00) or by imprisonment not exceeding three (3) months or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, a person shall be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than four thousand dollars (\$4,000.00) or by imprisonment not exceeding three (3) months or by both such fine and imprisonment.

(b) Any person who violates section 16-322 shall, upon conviction, be punished by a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding three (3) months or by both such fine and imprisonment.

(Ord. No. 19288, §1, 11-6-06)

(Ord. 19288, Added, 11/06/2006)