

## **ORDINANCE NO. 559**

### **An Ordinance of the Municipal Code of the City of Kiel Creating Section 10.11 of the Kiel Municipal Code (Chronic Nuisance Premises)**

The Common Council for the City of Kiel do ordain as follows:

SECTION 1: Section 10.11 Chronic Nuisance Premises is created to now read as follows:

#### **10.11 CHRONIC NUISANCE PREMISES**

(1) **FINDINGS.** The Common Council finds that certain premises within the City receive and require more than the general, acceptable level of police services. Such premises place an undue and inappropriate burden on City of Kiel taxpayers, and constitute public nuisances. The Common Council therefore authorizes the Chief of Police to charge the owners of such premises the costs associated with abating the violations at premises where nuisance activities chronically occur and to provide for forfeitures for the failure of property owners to abate such nuisance activities.

(2) **DEFINITIONS.** The following terms shall be defined as follows:

- (a) “Chief of Police” means the Chief of the Kiel Police Department or his or her designee.
- (b) “Chronic Nuisance Premises” means premises that meet any of the following criteria:
  - (1) The premises has had three (3) or more Nuisance Activities resulting in Enforcement Action on separate occasions within thirty (30) days, or;
  - (2) The premises has had six (6) or more Nuisance Activities resulting in Enforcement Action on separate occasions within a twelve (12) month period of time.
- (c) “Enforcement Action” means any of the following: The physical arrest of a person(s), the issuance of a citation(s) for a law violation and/or referral of charges by the police department to the City Attorney or District Attorney for prosecution for Nuisance Activities.
- (d) “Nuisance Activity” shall mean any of the following activities, behaviors or conduct occurring on or within two hundred (200) feet of a premises whenever engaged in by premises owners, operators, occupants or a person or persons associated with a premises:
  - (1) An act of Harassment, as defined in §947.013, Wis. Stats.
  - (2) Disorderly Conduct, as defined in §947.01, Wis. Stats.
  - (3) Crimes of Violence as defined in §940, Wis. Stats.
  - (4) Lewd and Lascivious Behavior, as defined in §944.20, Wis. Stats.
  - (5) Prostitution, as defined in §944.30, Wis. Stats.
  - (6) Keeping a Place of Prostitution, as defined in §944.34, Wis. Stats.
  - (7) Soliciting Prostitution, as defined in §944.32, Wis. Stats.
  - (8) Patronizing Prostitutes, as defined in §944.31, Wis. Stats.

- (9) Pandering, as defined in §944.33, Wis. Stats.
  - (10) Theft, as defined in §943.20, Wis. Stats.
  - (11) Receiving Stolen Property, as defined in §943.34 Wis. Stats.
  - (12) Arson, as defined in §943.02, Wis. Stats.
  - (13) Possession, Manufacture, or Delivery of a Controlled Substance or related offenses, as defined in Ch. 961, Wis. Stats.
  - (14) Gambling, as defined in §945.02, Wis. Stats.
  - (15) Animal violations as defined by §9.11, Kiel Municipal Code.
  - (16) Trespassing, as defined in §943.13 and §943.14 Wis.Stats.
  - (17) The production or creation of excessive noise, as defined in §9.06, Kiel Municipal Code.
  - (18) Loitering, as defined in §9.08, Kiel Municipal Code.
  - (19) Littering, as defined in §9.11, Kiel Municipal Code.
  - (20) Crimes involving illegal possession or use of firearms as defined in §941, §948.60, Wis.Stats., and §9.02, Kiel Municipal Code.
  - (21) Indecent exposure as defined in §944.20(1)(b), Wis.Stats.
  - (22) Possessing open intoxicants in public, as defined in §11.28 and §11.39, Kiel Municipal Code.
  - (23) Selling or giving away tobacco products to persons under the age of eighteen(18) as defined in §9.19, Kiel Municipal Code.
  - (24) Illegal sale, discharge and use of fireworks as defined in §9.04, Kiel Municipal Code.
  - (25) Truancy and contributing to truancy as defined in §9.21, Kiel Municipal Code.
  - (26) The operation of structures for the purpose of prostitution or gambling as defined in §10.04(1), Kiel Municipal Code.
  - (27) Underage consumption, possession or procurement of alcohol, as defined in §125, Wis.Stats. and §11.25, Kiel Municipal Code.
  - (28) Conducting a disorderly, riotous, or indecent licensed premise, as defined in §10.04 (1) and §11.16 (1), Kiel Municipal Code.
  - (29) Illegal sale of intoxicating liquor or fermented malt beverages, as defined in §125, Wis.Stats., and §11, Kiel Municipal Code.
  - (30) Any conspiracy to commit, as defined in §939.31, Wis.Stats., or attempt to commit, as defined in §939.32, Wis.Stats., any of the activities, behaviors or conduct enumerated above.
  - (31) Any act of aiding and abetting, as defined in §939.05, Wis.Stats., any of the activities, behaviors or conduct enumerated above.
  - (32) The use of, or allowing the use of, cigarette or tobacco products as prohibited by §9.20 of the Kiel Municipal Code.
  - (33) Frivolous calls to the police.
- (e) “Person associated with a premises” means the premises owner, operator, manager, officer, director, resident, occupant, guest, visitor, customer, patron or employee or agent of any of the above individuals, or one who waits to enter or attempts entry to the premises.
- (f) “Premises” means an individual or multi-family dwelling unit; any property used for residential purposes whether or not owner occupied; an individual business or commercial property; and associated common areas.

- (3) CHRONIC NUISANCE PREMISES PROHIBITED. It shall be unlawful for any property owner, operator, tenant, occupant, or person associated with a premises to allow the establishment of, keep, or maintain a chronic nuisance premises as described herein.
- (4) NOTICE OF CHRONIC NUISANCE Whenever the Chief of Police determines that:
- (a) three (3) or more Nuisance Activities resulting in Enforcement Action have occurred on separate occasions at the premises within thirty (30) days, or:
  - (b) six (6) or more Nuisance Activities resulting in Enforcement Action have occurred on separate occasions at the premises within a twelve (12) month period of time, the Chief of Police shall notify the premises owner in writing that the premises is a Chronic Nuisance Premises. Nuisance activities which were reported by the owner or manager of the premises shall not be counted in determining whether a premises is a Chronic Nuisance Premises.
- (5) PROCEDURE.
- (a) Upon determining that a premises meets the definition of a Chronic Nuisance Premises, the Chief of Police shall provide written notice to the owner of the premises which shall contain the following information:
    - (1) the street address or legal description sufficient to identify the premises,
    - (2) a description of the nuisance activities that have occurred at the premises, including the dates that the nuisance activities are alleged to have occurred,
    - (3) a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises pursuant to §66.0627 Wis.Stats.,
    - (4) a statement that the owner shall respond to the Chief of Police within ten (10) days to propose a written course of action to abate the nuisance activities or to appeal the determination, and that failure to submit a plan to abate such nuisance activities within ten (10) days shall subject the owner to a forfeiture of not less than two hundred fifty (\$250.00) and not more than one thousand dollars (\$1,000.00).
    - (5) a statement that the owner of the premises may be subject to a forfeiture of not less than five hundred (\$500.00) dollars nor more than one thousand (\$1,000.00) dollars for each and every day the owner maintains, keeps or allows the Chronic Nuisance Premises to exist.
    - (6) a notice as to the appeal rights of the owner.
  - (b) The above notice shall be deemed to be properly delivered to the owner if delivered by any one of the following methods:
    - (1) by personally delivering the notice to the premises owner, or
    - (2) by sending it registered mail or by certified mail return receipt requested to the owner of the premises last known address, or
    - (3) if the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the owner's usual place of abode in the presence of some competent member of the family at

least fourteen (14) years of age, or a competent adult currently residing there and who shall be informed of the contents of the notice, or

- (4) by publication as a Class 1 notice together with mailing the notice to the owner's last known residential or business address.
  - (c) Upon receipt of the notice, the premises owner shall respond within ten (10) days to the Chief of Police with a written course of action outlining the abatement actions the premises owner proposes to take in response to the notice. The Chief of Police may accept, reject or work with owner to modify the proposal. The proposal shall be deemed acceptable if it can reasonably be expected to abate the Nuisance Activities within sixty (60) days after submission of the proposal.
- (6) COST RECOVERY.
- (a) Whenever the Chief of Police determines that additional nuisance activity has occurred on the premises for which a notice has been served pursuant to (5)(b) above, that this nuisance activity has occurred not less than fifteen (15) days after the notice has been served, and that the owner has not complied with the requirements of (5)(c), the Chief of Police shall then cause all costs, fees and expenses to be charged against the owner of the premises and if unpaid, levied and collected by the City as a special charge against the premises pursuant to Sec. 66.0627.
  - (b) Calculation. In calculating the fees and expenses that may be levied and collected by the City as a special charge under (a) above, the Chief may consider but is not limited to the actual labor costs, including overtime, materials, vehicle expenses and related administrative time for enforcement action upon and/or pertaining to the premises in calculating the total costs, fees and expenses.
- (7) PENALTIES. In addition to the recovery of costs, expenses and fees as provided in subsection (6)(a) and (b), the following penalties may be jointly and severally sought and/or employed by the City and may be ordered and/or imposed for violations herein:
- (a) A premises owner who fails to respond to the Chief of Police within ten (10) days with a written course of action to abate the nuisance activities, pursuant to subsection (5)(c), shall forfeit and pay to the City a forfeiture of not less than two hundred fifty (\$250.00) and not more than one thousand dollars (\$1,000.00) plus court costs and fees.
  - (b) Any person who shall allow the establishment of, keep, or maintain a chronic nuisance premises after notice by the Chief of Police that the premises were designated Chronic Nuisance Premises shall forfeit and pay to the City not less than five hundred dollars (\$500.00) nor more than (\$1,000.00) for each separate incident of nuisance activity.
  - (c) The foregoing penalties and remedies are not in lieu of any other legal or equitable remedies available pursuant to other city ordinances, state statutes, or state administrative codes.
- (8) APPEAL. Appeal of the determination of the Chief of Police declaring a property to

be a Chronic Nuisance Premises or appeal of the imposition of special charges against the premises, shall be submitted in writing to the Administrative Review Appeals Board within ten (10) days of receipt of notice of the determination or imposition of special charges. In the event such appeal is timely filed, all parties shall be afforded an opportunity to present evidence and to rebut or offer countervailing evidence at a hearing after reasonable notice. The review procedures provided by Chapter 68, Wis. Stats. shall not apply to appeals under this ordinance.

(9) WHEN NUISANCE DEEMED ABATED. The public nuisance created by a Chronic Nuisance Premises shall be deemed abated when no enforcement action to address nuisance activities occurs for a period of six (6) months from the date stated on the notice declaring the premise a Chronic Nuisance Premise.

SECTION 2: This ordinance shall take effect upon passage and publication in accordance of law.

Ordinance No. 559 introduced on March 26, 2019 by Alderperson \_\_\_\_\_,  
seconded by Alderperson \_\_\_\_\_.

Upon a call of votes thereof, the result was as follows:

\_\_\_\_\_ Votes Cast  
\_\_\_\_\_ Votes Aye  
\_\_\_\_\_ Votes Nay

The Mayor declared Ordinance No. 559 introduced and approved this 26<sup>th</sup> day of March, 2019.

\_\_\_\_\_  
MICHAEL STEINHARDT, Mayor

COUNTERSIGNED:

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JAMIE J. AULIK, City Administrator