

CHAPTER 21

NUISANCES IN GENERAL

Art. I. General Provisions, §21-1100 - §21-1104

Art. II. Chronic Nuisance Property and Aggravated Chronic Nuisance Property, §21-2101 - §21-2107

ARTICLE I. GENERAL PROVISIONS

SEC. 21-1100. DEFINED.

Within the City, it is hereby declared a nuisance for any person:

- (1) **Nuisances defined by state law; nuisances in fact.** To cause any of those acts or omissions that are declared to be nuisances by the laws of the state, and such as are known as nuisances to the common law, not hereinafter enumerated in this section or this Code; or to cause those acts or omissions which are nuisances in fact.
 - (2) **Nuisances defined by this Code.** To cause any of those acts or omissions that is declared by this Code to be nuisances.
 - (3) **Unsafe, unsightly structures.** To maintain any building, structure, street, sign or billboard in an unsafe, hazardous, or unsightly condition.
 - (4) **Distillery, slaughterhouse, etc.** To carry on, use, or occupy any distillery or slaughtering establishment, or establishment for steaming or rendering lard, tallow, offal, dead animals, or other substance of like nature, without the permission of the City Council.
 - (5) **Odors.** To engage in any activity which causes or produces unreasonably offensive odors, except that this subsection shall not apply to those activities carried on in the public interest.
 - (6) **Putrid substances.** Maintain or permit any substance on the premises which is, or may become, putrid or create an unhealthy condition.
 - (7) **Noises.**
 - a. To cause or allow unreasonably loud noises tending to cause alarm or to disturb the public peace and quiet.
 - b. Noise measurements, as set forth in Section 35-5409(d), are not required to establish a violation of this subdivision. However, noise measurements may be introduced as corroborating evidence when alleging a violation of this subsection.
 - c. If noise measurements are collected, manufacturer's instructions for the equipment used should be followed and Section 35-5409(d) may be, but is not required to be, used as guidance in gathering data.
- (Ord. No. 3001-2015; Sec. 21-1100(7) repealed in its entirety; new Sec. 21-1100(7) enacted; 01/27/15; corrected scrivener's error by amending the reference to Section 35-5409(e) herein to Section 35-5409(d); 08/09/16)
- (8) **Licenses.** To fail or refuse to obtain and possess any license required by this Code or other ordinance of the City.
 - (9) **Continuing violations of this Code.** To continue to do any act, acts, omission or omissions which constitutes a violation of this Code or other ordinance of the City.

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- (10) **Attractive nuisances.** For the owner or occupant of any premises to create, maintain, or suffer an attractive nuisance to remain on the premises.
- (11) **Zoning violations.** To violate the Zoning Ordinance of the City.
- (12) **Unhealthy conditions.** To create, allow, maintain, or permit any condition which may endanger the public health.
- (13) **Encroachments.** To cause, allow, permit, or suffer any encroachment upon public ways or upon public grounds without obtaining a permit therefor.
- (14) **Unlawful assemblies.** To organize, lead, or participate in any unlawful assembly of persons.
- (15) **Violation of technical Codes.** To cause, allow, permit, or suffer the violation of the Building Code of the City, the Electrical Code of the City, the Fire Prevention Code of the City, the Heating and Air Conditioning Code of the City, the Plumbing Code of the City, or any other technical Code adopted by any provision of this Code or any other ordinance of the City.
- (16) **Abandoned refrigerators.** To leave or permit standing outside of any structure, or within any abandoned structure, in a place accessible to children, any abandoned, unattended, or discarded icebox, refrigerator, or other container which has an air tight door or lid with a snap lock or other locking device which cannot be released from the inside; except that it shall not be a nuisance under the subsection if the door is first removed from the device.
- (17) **Littering.** To allow, suffer, permit, or cause to be dropped, thrown, discarded, placed, or deposited on any public way or public place, or on any private property when public property may be affected thereby, any paper, glass, plastic, wood, metal, solid or liquid vegetable or animal compound, rubbish, garbage, waste, effluent, junk, debris, litter, solid, or any combination thereof, except in a refuse receptacle or landfill site of the City.
- (18) **Construction and heavy equipment noise.** To allow, suffer, permit or cause to be operated, or, otherwise engaged vehicles licensed by the State of Illinois or another state as a second division truck exceeding gross vehicle weight of thirty thousand (30,000) pounds or unlicensed motor vehicles used in the construction industry and commonly referred to as heavy construction equipment (such equipment to include but not to be limited to road graders, back hoes, steam rollers and crane) for the purpose of making commercial deliveries or engaging in building construction, other construction, or making commercial pickups, such as refuse collections, at any location within five hundred (500) feet of a residential use, prior to 6:00 a.m. on any day and after 9:00 p.m. on any day; however, this prohibition shall not apply in cases where a repair is immediately required for the protection of life or property. Nothing herein is intended to prohibit mere travel of legally authorized vehicles upon the streets of the City.
- (19) **Graffiti.**
 - a. Graffiti shall be defined as any sign, symbol, marking, drawing, name, initial, word, diagram, sketch, picture or letter placed upon the real or personal property of an owner without the owner's express, written permission; provided, however, it shall not be a defense that the owner/occupant has given permission where this graffiti tends to incite violence.
 - b. It shall be unlawful for any person to place graffiti upon the real or personal, public or private, property of another.
 - c. It shall be unlawful for the owner and/or occupant of fixed real or personal property located within the public view to place or give permission to place graffiti, as otherwise defined in subsection a., on said real or personal property if the graffiti tends to incite violence by referring to gang or criminal activity, depicts or expresses obscenity as defined in Chapter

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22, Sec. 22-7200, of the Moline Code of Ordinances, or contains defamatory material about a public or private person, except as otherwise allowed by law.

- d. It shall be unlawful for any person to possess, while in any public building or facility, or while on private property, any of the following materials with the intent to use such material(s) to violate subsection b. and/or c. above: spray paint containers, paint, ink, marking pens containing non-water soluble fluid, brushes, applicators or other materials for marking, scratching or etching.
- e. Upon being notified, in writing, by the City of Moline, the property owner upon which graffiti has been illegally placed shall remove the graffiti within fifteen (15) days of the date of notice. By written request, this time period may be waived due to weather conditions by the chief of police or designee thereof. The property owner may also request assistance, in writing, for the graffiti removal based on the owner's inability to perform removal. Failure to remove the graffiti within the specified time shall cause the summary abatement of this nuisance as prescribed in this chapter and costs shall be assessed to the owner. The penalty upon conviction for the offense of failure to remove graffiti shall be a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00) for each offense and each day such failure shall continue shall be considered a separate offense and fines shall be assessed accordingly.
- f. Penalty for violating subsection b. shall be a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00). The offender may also be ordered by the court, in addition to fines, to pay restitution to the property owner for the costs of restoring the property to its condition before the graffiti was applied.
- g. Penalty for violating subsection c. shall consist of a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00) for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- h. Penalty for violating subsection d. shall be a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00).
- i. Public service work including, but not limited to, cleaning graffiti at locations within the City of Moline may be required by the court for persons convicted of violating subsections b., c., or d., in addition to or in lieu of fines or penalties described in subsections f., g., and h.

(Ord. No. 95-2-2, Sec. 21-1100 amended by enacting new subsection (19); 02/14/95; Ord. No. 98-10-1; Sec. 21-1100(19) repealed in its entirety; new Sec. 21-1100 (19) enacted; 10/06/98)

- (20) **Barbed wire.** To construct, create, allow, maintain or permit within the City a fence or barrier, consisting or made of barbed wire, or of which barbed wire is a part, unless the barbed wire commences at least eight feet above the ground.
- (21) **Abandoned or Inoperable Vehicles.**
 - a. To allow, cause or permit an abandoned or inoperable vehicle as defined in Section 20-7400 to be present and open to the view of the public.
 - b. Penalty. Any person violating Section 21-1100(21) shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.
- (22) **Garbage and Debris.**
 - a. Who is the owner of any parcel of private property to refuse or neglect to remove garbage or debris from said parcel.
 - b. Except for garbage and debris set out for normal garbage collection or that has been scheduled as a special bulky item or items pickup through the City's public works department per Section 15-2201(e) of the Code.
 - c. All provisions of Section 32-1100(e), (f), (g), (h), (i) and (j) shall apply.

(Ord. No. 3008-2004; Sec. 21-1100(21) enacted new; 02/03/04) (Ord. No. 3052-2017; Sec. 21-1100(22) enacted new; 12/19/17)

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SEC. 21-1101. NUISANCES CONSTITUTE VIOLATION.

It shall be unlawful for any person to create or maintain or permit the creation or maintenance of a nuisance as above defined upon property under such person's control. A person who violates this section shall be guilty of violation of this Code and such violation shall be punished as set forth within each subsection unless no punishment is set forth in said subsection, in which case the violation will be punished as set forth in Chapter 1, Sec.1-1107 of this Code. Nothing herein shall be construed to limit injunctive or other equitable relief.

(Ord. No. 95-2-2; Sec. 21-1101 repealed in its entirety; new Sec. 21-1101 enacted; 02/14/95)

SEC. 21-1102. STANDING TO COMPLAIN.

The following shall have standing to complain of any condition declared to be a nuisance by this chapter:

- (1) The City;
- (2) Any person whose interest, rights or property are particularly adversely affected by the nuisance.

SEC. 21-1103. ABATEMENT PROCEEDINGS IN GENERAL.

Any person having standing to complain of a nuisance under this chapter, or the head of any City department having cognizance of a nuisance, shall report the fact of the nuisance and the details surrounding it to the city attorney who shall, if it is justified under the circumstances, institute abatement proceedings in accordance with the laws of the state.

SEC. 21-1104. EMERGENCY ABATEMENT OF CERTAIN NUISANCES.

When a nuisance as defined by this chapter exists and the nuisance causes or threatens imminent danger or great peril to persons or property, the nuisance may be immediately abated by the City, by using the following procedure:

- (1) The city administrator shall find that the nuisance exists, and that the nuisance causes or threatens imminent danger or great peril to persons or property, and that an emergency exists.

(Ord. No. 92-6-1; Sec. 21-1104(1) repealed in its entirety; new subsection 21-1104(1) enacted; 06/02/92)

- (2) A copy of the city administrator's findings made under subsection (1) shall be placed on file in the office of the city clerk.

(Ord. No. 92-6-1; Sec. 21-1104(2) repealed in its entirety; new subsection 21-1104(2) enacted; 06/02/92)

- (3) The city clerk shall immediately issue a notice directed to the owner or occupant of the premises on which the nuisance exists, directing the owner or occupant to immediately abate the nuisance.

- (4) The notice issued pursuant to subsection (3) shall be served upon the owner or occupant of the premises upon which the nuisance exists. The notice may be served by any officer or employee of the City. In the event that the owner or occupant of the premises is not to be found, the notice may be posted on the premises on which the nuisance exists.

- (5) Upon being served with a notice to abate a nuisance as provided in subsection (4), the owner or occupant of the premises on which the nuisance is located shall immediately abate the nuisance. The failure of the owner or occupant to immediately abate the nuisance upon service or posting of the notice shall be a violation of this Code and shall be punished as provided in Sec. 1-1107 of this Code.

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- (6) In the event that the owner or occupant of a premises on which a nuisance is ordered to be abated under this section does not immediately abate the nuisance, the appropriate City department shall immediately abate the nuisance. The cost of the abatement by the City shall be assessed against the property on which the nuisance existed, and shall be collected as other special assessments.

ARTICLE II. CHRONIC NUISANCE PROPERTY AND AGGRAVATED CHRONIC NUISANCE PROPERTY

SEC. 21-2101. VIOLATION OF THIS ARTICLE.

(a) Any certain property within the City of Moline which becomes a chronic nuisance property or an aggravated chronic nuisance property is in violation of this article and is subject to its remedies.

(b) Any owner or person in charge who permits property under his or her ownership or control to be a chronic nuisance property or an aggravated chronic nuisance property shall be in violation of this article and subject to its remedies.

SEC. 21-2102. DEFINITIONS.

(a) **Chronic nuisance property.** Property upon which three (3) or more of the criminal or other offenses listed below have occurred during any 365-day period, as a result of any three (3) separate and distinct events.

- (1) First degree murder as defined in 720 ILCS 5/9-1;
- (2) Any kidnapping offense as defined in 720 ILCS 5/10-1 et seq.;
- (3) Criminal Housing Management as defined in 720 ILCS 5/12-5.1;
- (4) Possession of explosives or incendiary devices as defined in 720 ILCS 5/20-2;
- (5) Any offense involving deadly weapons as defined in 720 ILCS 5/24 et seq.;
- (6) Mob action as defined in 720 ILCS 5/25-1;
- (7) Possession, manufacture or delivery of controlled substances as defined in 720 ILCS 570/401 et seq.;
- (8) Sexual abuse or related offenses as defined in 720 ILCS 5/12-15 et seq.;
- (9) Possession, cultivation, manufacture or delivery of cannabis as defined in 720 ILCS 550/1 et seq. or Section 22-1106 of the Moline Code of Ordinances;
- (10) Sale, delivery or possession of drug paraphernalia, as defined in 720 ILCS 600/3 or Section 22-1201, 22-1202, and 22-1203 of the Moline Code of Ordinances;
- (11) Disorderly conduct as defined in 720 ILCS 5/26-1 or Section 22-2100 of the Moline Code of Ordinances;
- (12) Gambling as defined in 720 ILCS 5/28-1;
- (13) Assault or battery or any related offense as defined in 720 ILCS 5/12-1 et seq. or Section 22-2101 or Section 22-2102 of the Moline Code of Ordinances;

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- (14) Public indecency as defined in 720 ILCS 5/11-9;
- (15) Prostitution as defined in 720 ILCS 5/11-14 et seq.;
- (16) Criminal damage to property as defined in 720 ILCS 5/21 et seq. or Section 22-3100 of the Moline Code of Ordinances;
- (17) Illegal consumption or possession of alcohol as defined in 235 ILCS 5/1-1 et seq. or Section 4-5102 or Section 4-5104 of the Moline Code of Ordinances;
- (18) An order imposing a fine or other sanction for violation of Chapter 8 of the Moline Code of Ordinances, which order is issued by the administrative hearing officer pursuant to Sections 2-6100 through 2-6117 of the Moline Code of Ordinances or by a Court;
- (19) A violation of Chapter 32 of the Moline Code of Ordinances, which violation is not remedied within the time allotted after service of a notice to abate or correct as provided in Chapter 32;
- (20) Violation of the City nuisance ordinance, Sections 21-1100 and 21-1101, of the Moline Code of Ordinances;
- (21) Violation of the City of Moline's Liquor Ordinance as set forth in Chapter 4 of the Moline Code of Ordinances or violation of the State of Illinois Statute controlling or regulating the sale or use of alcoholic beverages.
- (22) Violation of the Methamphetamine Control and Community Protection Act, 720 ILCS 646/1 et seq.;
- (23) Exemptions. The following shall not be considered in the determination of a chronic nuisance property:
 - a. Contact made to police or other emergency services, if (i) the contact was made with the intent to prevent or respond to domestic violence or sexual violence; (ii) the intervention or emergency assistance was needed to respond to or prevent domestic violence or sexual violence; or (iii) the contact was made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability;
 - b. An incident or incidents of actual or threatened domestic violence or sexual violence against a tenant, household member, or guest occurring in the dwelling unit or on the premises; or
 - c. Criminal activity or a local ordinance violation occurring in the dwelling unit or on the premises that is directly relating to domestic violence or sexual violence, engaged in by a tenant, member of a tenant's household, guest, or other party, and against a tenant, household member, guest, or other party.

(Ord. No. 3037-2018; new subsections enacted: 21-2102(a)(22), (a)(23); 10/09/18)

(b) **Aggravated chronic nuisance property.** Property upon which two (2) or more of the criminal offenses listed below have occurred during any 365-day period, as a result of any two (2) separate and distinct events.

- (1) First degree murder as defined in 720 ILCS 5/9-1;
- (2) Any kidnapping offense as defined in 720 ILCS 5/10-1 et seq.;
- (3) Criminal Housing Management as defined in 720 ILCS 5/12-5.1;
- (4) Possession of explosives or incendiary devices as defined in 720 ILCS 5/20-2;

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- (5) Any offense involving deadly weapons as defined in 720 ILCS 5/24 et seq.;
- (6) Mob action as defined in 720 ILCS 5/25-1 (a)(1), (d), (e);
- (7) Possession, manufacture or delivery of controlled substances as defined in 720 ILCS 570/401 et seq.;
- (8) Sexual abuse or related offenses as defined in 720 ILCS 5/12-15 et seq.;
- (9) Possession, cultivation, manufacture of delivery of cannabis as defined in 720 ILCS 550/1 et seq. and Section 22-1106 of the Moline Code of Ordinances;
- (10) Sale, delivery or possession of drug paraphernalia, as defined in 720 ILCS 600/3 and Section 22-1201, 22-1202, and 22-1203 of the Moline Code of Ordinances.
- (11) Violation of the Methamphetamine Control and Community Protection Act, 720 ILCS 646/1 et seq.;
- (12) Prostitution as defined in 720 ILCS 5/11-14 et seq.;
- (13) Exemptions. The following shall not be considered in the determination of an aggravated chronic nuisance property:
 - a. Contact made to police or other emergency services, if (i) the contact was made with the intent to prevent or respond to domestic violence or sexual violence; (ii) the intervention or emergency assistance was needed to respond to or prevent domestic violence or sexual violence; or (iii) the contact was made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability;
 - b. An incident or incidents of actual or threatened domestic violence or sexual violence against a tenant, household member, or guest occurring in the dwelling unit or on the premises; or
 - c. Criminal activity or a local ordinance violation occurring in the dwelling unit or on the premises that is directly relating to domestic violence or sexual violence, engaged in by a tenant, member of a tenant's household, guest, or other party, and against a tenant, household member, guest, or other party.

(Ord. No. 3037-2018; new subsections enacted: 21-2102(b)(11), (b)(12), (b13); 10/09/18)

(c) **Control.** The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.

(d) **Court.** A court of competent jurisdiction in the State of Illinois or the City's system of administrative adjudication, commonly known as the Municipal Code Enforcement System ("MUNICES").

(e) **Owner.** Any person, partnership, land trust, or corporation having any legal or equitable interest in the property. Owner includes, but is not limited to:

- (1) A mortgagee in possession in whom is vested (a) all or part of the legal title to the property; or (b) all or part of the beneficial ownership and the right to the present use and enjoyment of the premises; or
- (2) An occupant who can control what occurs on the property; or
- (3) Any person acting as an agent of an owner.

(f) **Permit.** To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

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(g) **Person.** Any natural person, association, partnership, corporation or other entity capable of owning or using property in the City of Moline.

(h) **Person in charge.** Any person in actual or constructive possession of a property, including but not limited to an owner, occupant of property under his or her domain, ownership or control.

(i) **Property.** Any real property, including that which is affixed, incidental or pertinent to land, including but not limited to any premises, room, house, building or structure or any separate part or portion thereof, whether permitted or not.

SEC. 21-2103. REMEDIES.

(a) In the event the court determines the property to be a chronic nuisance property or an aggravated chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than thirty (30) days, but not more than one hundred eighty (180) days, or may employ any other remedy deemed by it to be appropriate to abate the nuisance.

(b) In addition to Sec. 21-2103(a) above, the court may impose upon the owner a civil penalty in accordance with Sec. 1-1107 of the Moline Code of Ordinances for each day the owner had actual knowledge that the property was a chronic nuisance property or an aggravated chronic nuisance property and permitted the property to remain a chronic nuisance property or an aggravated chronic nuisance property.

(c) In determining what remedy or remedies shall be employed, the court may consider evidence of other conduct which has occurred on the property, including, but not limited to:

- (1) The actions or lack of action taken by the owner to mitigate or correct the problem at the property;
- (2) Whether the problem at the property was repeated or continuous;
- (3) The magnitude or gravity of the problem;
- (4) The cooperation of the person in charge with the City;
- (5) The cost to the City to investigate and correct or attempt to correct the condition;
- (6) The disturbance of neighbors;
- (7) The recurrence of loud and obnoxious noises; and/or
- (8) Repeated consumption of alcohol in public.

(d) The court may authorize the City of Moline to physically secure the property against use or occupancy in the event the owner fails to do so within the time specified by the court or to take other steps necessary to abate a chronic nuisance or an aggravated chronic nuisance.

(e) In the event that the City is authorized to secure the property or otherwise abate a chronic nuisance or an aggravated chronic nuisance, all costs reasonably incurred by the City to effect a closure or abate the nuisance shall be assessed against the owner.

(f) In the court's discretion, a tenant may be entitled to his or her reasonable relocation costs from the owner, as those costs are determined by the court if, without actual notice, the tenant moved into the property, after the owner received notice as described herein of the neighborhood improvement officer's determination as described below.

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(g) The City, in addition to any other remedies set forth herein, may, at its discretion, charge an owner of a chronic public nuisance or an aggravated chronic public nuisance with a violation of this article which may be processed and prosecuted as an ordinance violation. Any person violating Section 21-2101 shall be subject to a mandatory fine of not less than two hundred fifty dollars (\$250.00) plus court costs.

(h) In addition to other remedies available, the court may order the owner or person in control of the nuisance property to post a reasonable bond to assure future compliance with the statutes of the State of Illinois and the ordinances of the City of Moline for a reasonable period of time, not to exceed one (1) year.

SEC. 21-2104. NOTIFICATION OF PROCEDURE.

(a) When the neighborhood improvement officer receives three (3) or more police or inspection reports documenting the occurrence of nuisance activity, as defined by Section 21-2102(a) of this chapter, or two or more police or inspection reports documenting the occurrence of nuisance activity, as defined by Section 21-2102(b) of this chapter, on or within a property, the neighborhood improvement officer shall independently review such reports to determine whether they describe acts set forth in Section 21-2102(a) or (b) of this chapter. Upon such findings, the neighborhood improvement officer shall notify the owner or person in control in writing that the property has been determined to be a chronic nuisance or an aggravated chronic nuisance property. The notice shall contain the following information:

- (1) The street address or legal description sufficient for identification of the property;
- (2) A statement that the neighborhood improvement officer has determined the property to be a chronic nuisance property or aggravated chronic nuisance property with a concise description of the nuisance activities leading to his/her findings;
- (3) Demand that the owner respond within ten (10) days to the neighborhood improvement officer and propose a course of action that the neighborhood improvement officer agrees will abate the nuisance activities giving rise to the violation;
- (4) Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the owner at the address of the property believed to be a chronic nuisance property, or such other place which is likely to give the person in charge notice of the determination by the neighborhood improvement officer;
- (5) A copy of the notice shall be served on the owner at such address as shown on the tax rolls of the county in which the property is located, and/or the occupant, at the address of the property, if these persons are different than the owner, and shall be made either personally or by first class mail, postage prepaid;
- (6) A copy of the notice shall also be posted at the property after ten (10) days has elapsed from the service or mailing of the notice to the owner and the owner has not contacted the neighborhood improvement officer.

Nothing herein shall prohibit the neighborhood improvement officer from sending a warning letter that a property is in danger of becoming a chronic nuisance or an aggravated chronic nuisance property after receiving one or more police or inspection reports documenting the occurrence of nuisance activity, as defined in Section 21-2102(a) and (b) of this chapter. Such warning is not required.

(b) The failure of any person to receive notice that the property may be a chronic nuisance property or aggravated chronic nuisance property shall not invalidate or otherwise affect the proceedings under this article.

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(c) If after the notification, but prior to the commencement of legal proceedings by the City pursuant to this article, an owner stipulates with the neighborhood improvement officer that the owner will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the neighborhood improvement officer may agree to postpone legal proceedings for not less than ten (10) days nor more than thirty (30) days. If the agreed course of action does not result in the abatement of the nuisance activity or if no agreement concerning abatement is reached within thirty (30) days, the City of Moline shall commence a legal proceeding to abate the nuisance.

SEC. 21-2105. COMMENCEMENT OF ACTION, BURDEN OF PROOF.

(a) The City of Moline may commence an action to abate a chronic nuisance or an aggravated chronic nuisance as described in Section 21-2102(a) and (b).

(b) In an action seeking abatement of a chronic nuisance property or aggravated chronic nuisance property, the City shall have the initial burden of showing by preponderance of the evidence that the property is a chronic nuisance property or an aggravated chronic nuisance property.

(c) It is a defense to an action seeking the closure of chronic nuisance property or an aggravated chronic nuisance property that the owner or person in control of the property at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become a chronic nuisance property or an aggravated chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the findings that the property is a chronic nuisance property or an aggravated chronic nuisance property.

SEC. 21-2106. EMERGENCY CLOSING PROCEDURES.

(a) In the event that it is determined that the property is an immediate threat to the public safety and welfare, the City may apply to the court for such interim relief, as is deemed by the city attorney to be appropriate. In such an event, the notification provision set forth in Section 21-2104 above need not be complied with; however, the City shall make a diligent effort to notify the person in charge prior to a court hearing. In the alternative, the City may proceed under Section 21-1104 for emergency abatement.

(b) In the event that the court finds the property constitutes a chronic nuisance property or an aggravated chronic nuisance property and finds that the property is an immediate threat to the public safety and welfare, the court may order the remedies set forth in Section 21-2103 of this chapter.

SEC. 21-2107. SEVERABILITY.

If any provision of this article or its application, or any person or circumstances held to be invalid for any reason, the remainder of said application of its provisions to the other persons or circumstances shall not be in any way affected.

Note:

- 1. Chapter 21 repealed in its entirety and a new Chapter enacted in lieu thereof per G.O. No. 3042-2012; 12/11/12**
- 2. Prior and subsequent ordinance amendments are referenced by their ordinance numbers and adoption dates at the end of the corresponding section or subsection.**