

ORDINANCE NO. 5896

AN ORDINANCE AMENDING CHAPTER 23 OF THE VILLAGE CODE OF THE VILLAGE OF MOUNT PROSPECT, ILLINOIS, REGARDING LANDLORD-TENANT OBLIGATIONS, CHRONIC PUBLIC NUISANCES AND CRIME FREE HOUSING

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MOUNT PROSPECT, COOK COUNTY, ILLINOIS, PURSUANT TO ITS HOME RULE POWERS:

SECTION 1: The text of Section 23.1801, "Purpose and Declaration of Policy", of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be deleted in its entirety and replaced with the following:

23.1801: PURPOSE AND DECLARATION OF POLICY:

It is the purpose of this article and the policy of the Village, in order to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of the landlord and the tenant in the rental of dwelling units in the village and to encourage the landlord and the tenant to maintain and improve the quality of rental housing within the community.

It is also the purpose of this article and the policy of the Village to protect, preserve, and promote the health, safety and welfare of its citizens through the reduction, control, and prevention of criminal and nuisance activities. In that regard, the village board finds that the repeated commission of criminal offenses and violations of the Mount Prospect Village Code within the village by tenants, members of a tenant's household, tenant's guest(s) and any person under tenant's control substantially annoys and injures the health, safety and welfare of its citizens.

This article shall be liberally construed and applied to promote its purposes and policies.

SECTION 2: Section 23.1803, "Definitions", of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be amended as follows:

A. The definition of Chronic Public Nuisance Property shall be deleted and replaced with the following:

CHRONIC PUBLIC NUISANCE PROPERTY: Any rental unit, whose tenant(s), any member of the tenant's household, tenant's guest(s), and any person under tenant's control, commit any two (2) or more public nuisances, one of which constitutes a felony offense, within the Village of Mount Prospect within any one year period, or any three (3) or more public nuisances within the Village of Mount Prospect within any one year period, and any multi-family rental structure whose tenant(s), any member of the tenant's household, tenant's guest(s), and any person under tenant's control, commit any six (6) or more public nuisances within the Village of Mount Prospect within any one year period.

B. The following definitions shall be inserted alphabetically:

FELONY OFFENSE: Any offense that constitutes a felony under the Criminal Code of 1961, 720 ILCS 5/1-1 et seq., including, but not limited to, those described as a public nuisance in this Section.

PROPERTY MANAGER: Any person, agent, firm or corporation authorized to manage the premises.

RESPONSIBLE PARTY: Includes landlords, landlords' designated agents, residential operators licensees, and property managers.

C. The definition of Public Nuisance shall be amended by inserting a new subsection O, the remaining subsections to be renumbered alphabetically, to be and read as follows:

O. Any offense that constitutes a felony under the Criminal Code of 1961, 720 ILCS 5/1-1 et seq., including, but not limited to, those set forth above.

SECTION 3: Section 23.1806, "Landlord Obligations", of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be amended as follows:

A. Subsection C, Disclosure, shall be amended as follows:

1. Sub-subsection 1 shall be deleted in its entirety and replaced with the following:

1. The landlord or any person authorized to enter into a rental agreement on his/her behalf, shall disclose to the tenant in writing on or before the commencement of the tenancy:

- a. The name and address of the owner; and
- b. The name, address and telephone number of the property manager, if any.

2. Sub-subsection (3) shall be amended by inserting the word "property" before the word "manager" to be and read as follows:

3. The information required to be furnished by subsection C1 of this section shall be kept current. Subsections C1 and C2 of this section extend to and are enforceable against any successor landlord or property manager.

B. Sub-subsection (2) of Subsection F, "Limitation on Liability", shall be deleted in its entirety and replaced with the following:

2. Unless otherwise agreed, the property manager is relieved of liability under the rental agreement for events occurring after notice to the tenant of the termination of its management.

SECTION 4: The text and title of Section 23.1812, "Civil Action by Village to Enforce Compliance", of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be deleted in its entirety and the title shall state "Intentionally Left Blank".

SECTION 5: Subsections B, C and D of Section 23.1813, "Chronic Public Nuisance", of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be deleted in their entirety and the following inserted in their place:

B. Preabatement Procedure: Whenever the chief of police, or his/her designee, receives one police report of any law enforcement agency lawfully exercising jurisdiction in the Village, which reports or describes public nuisance activity within the Village within the same one year period by a tenant(s), any member of the tenant's household, tenant's guest(s), and any person under tenant's control, of the same rental unit or the same multi-family residential structure, the chief of police, or his/her designee, may take the following action:

1. Notify the landlord that the property may be in danger of becoming a chronic public nuisance property. The notice shall contain the following information:

a. The street address or legal description sufficient for identification of the dwelling unit and/or at a multi-family residential structure.

b. A statement that the chief of police has information that the property is in danger of becoming a chronic public nuisance property with a concise description of the public nuisance activities that may exist or that have occurred. Said notice shall further state the following:

(1) Demand that corrective action be taken to ensure that a second or subsequent public nuisance activity (in the event of a felony offense related to the same rental unit) or a third or subsequent public nuisance activity does not occur in regard to the same rental unit within that one year period, or, in the case of a multi-family residential structure, to ensure that a sixth or subsequent public nuisance activity does not occur within that one year period;

(2) Explain that, in the event of a subsequent occurrence of a public nuisance activity on that property, the chief of police may declare the property a chronic public nuisance, such that the landlord's residential operator's license shall be subject to suspension or revocation;

(3) Recommend that landlord enforce the crime free lease provision through eviction or take such other reasonable corrective action as the chief of police deems necessary; and

(4) Notify the landlord that it has the right to request a hearing before the Village Manager to contest the determination of an occurrence of public nuisance activity. Said request for a hearing must be received by the Village Manager within eight (8) days following the date such notice was personally delivered or placed in the mail. If such a request for a hearing is not received within that time period, the police chief's determination shall become final.

c. Said notice shall be served by regular U.S. mail or by personal service.

2. Whenever the chief of police, or his/her designee, receives subsequent police reports of any law enforcement agency lawfully exercising jurisdiction in the Village, which report or describe a second or subsequent public nuisance activity in regard to the same rental unit or a second, third, fourth, or fifth or subsequent public nuisance activity in regard to the same multi-family residential structure within the same one year period, the chief of police, or his/her designee, shall send a notice in the form set forth in subsection B1 of this section. For purposes of this section, it is not necessary that notices be sent for each public nuisance activity that may occur, but that two (2) preabatement notices be sent in regard to public nuisance activities at a rental unit, and five (5) preabatement notices be sent in regard to such activities at a multi-family residential structure, prior to commencement of the abatement proceedings set forth below. If the first or second public nuisance activity in regard to the same rental unit is a felony offense, a second preabatement notice is not required.

C. Abatement Procedure: If, after complying with the notification procedures described in subsection B of this section, the chief of police receives a police report documenting the occurrence of a second public nuisance activity, one of which public nuisances is a felony offense, or a third or subsequent public nuisance activity in regard to the same rental unit and/or receives a police report documenting the occurrence of a sixth or subsequent public nuisance activity in regard to the same multi-family residential structure within one year of the acts or conduct with respect to which a notification was issued, and determines that the property has become a chronic public nuisance property, the chief of police shall:

1. Notify the landlord of the rental unit and/or multi-family residential structure that the property has been declared a chronic public nuisance property. The notice shall contain the following information:

a. The street address or legal description sufficient for identification of the property.

b. A statement that the chief of police has determined the property to be a chronic public nuisance property with a concise description of the public nuisance activities leading to that finding.

c. A statement that the chief of police has recommended to the Village Manager to revoke or suspend the residential operator's license pursuant to subsection 10.401C of this code.

d. Said notice shall be served by regular U.S. mail, or by personal service.

D. Burden Of Proof, Notice:

1. In an action seeking abatement of a chronic public nuisance property by revocation or suspension of the landlord's residential operator's license, the Village shall have the initial burden of showing by a preponderance of the evidence that the property is a chronic public nuisance property.

2. For purposes of showing that the property is a chronic public nuisance property and that a public nuisance has occurred within the Village, the testimony of police officers to recount witness statements shall be admissible, subject to the discretion of the hearing officer.

3. The following are defenses to an action seeking suspension or revocation of a residential operator's license:

a. That the landlord, at the time in question, could not, in the exercise of reasonable care or diligence, determine that the property had become a chronic public 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 public nuisance property.

b. That the public nuisance activities occurring at a rental unit were not related to the same tenant. Public nuisance activities at a rental unit are subject to abatement under this section, if they occur while the rental unit is leased to the same tenant.

4. The failure of any person to receive the notices in subsections B and C of this section shall not invalidate or otherwise affect the proceedings under this section.

SECTION 6: Subsection A of Section 23.1814, "Crime Free Housing", of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be amended as follows:

A. The last sentence of Subsection (A) shall be deleted, to be and read as follows:

A. A residential operator's license shall not be issued until the landlord, or designated agent, has attended and successfully completed the crime free housing seminar, sponsored by the Village of Mount Prospect.

B. Subsection G shall be amended as follows:

1. The phrase "February 1, 2007" in the first paragraph shall be deleted and replaced with the phrase "February 1, 2012," to be and read as follows:

G. After February 1, 2012, every lease, including lease extensions, shall contain a crime free lease provision, the purpose of which is to make criminal activity, not limited to violent or drug related criminal activity, engaged by, facilitated by or permitted by the lessee, member of the household, guest or other party under the control of the lessee, a lease violation, and to provide the landlord with authority under that clause to initiate eviction proceedings pursuant to state law. The crime free lease provision shall be in substantially the following form:

2. The heading "Crime Free Housing Lease Provision - Prohibition against criminal activity on premises." shall be amended by replacing the phrase "on premises" with "within the Village of Mount Prospect", to be and read as follows:

Crime Free Housing Lease Provision - Prohibition against criminal activity within the Village of Mount Prospect.

3. Crime Free Housing Lease provision 1 shall be amended by deleting the phrase "on the leased premises or on Lessor's property" and replacing it with the phrase "within the Village of Mount Prospect", to be and read as follows: \

1. The Tenant, any member of the tenant's household, Tenant's guest(s), and any person under Tenant's control shall not engage in or facilitate criminal activity within the Village of Mount Prospect, which includes the leased premises, at _____.

4. A new Crime Free Housing Lease subsection (xv) shall be inserted in Crime Free Housing Lease provision 7, the remaining subsections to be renumbered numerically, to be and read as follows:

(xv) Any offense that constitutes a felony under the Criminal Code of 1961, 720 ILCS 5/1-1 et seq., including, but not limited to, those set forth above.

5. Crime Free Housing Lease subsection (newly renumbered) (xvii) shall be amended by inserting the phrase "Mount Prospect" before the phrase "Village Code", to be and read as follows:

(xvii) Any offense defined and prohibited by Articles I through VIII of Chapter 23, "Offenses and Miscellaneous Regulations" of the Mount Prospect Village Code.

SECTION 7: Subsection B, "License Application", of Section 23.1815, License to Operate Rental Structures, of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be amended as follows:

A. Subsection 1 shall be deleted in its entirety and replaced with the following:

1. Each applicant for a license to maintain a rental structure shall file a written application with the code official stating:
 - a. The full legal name, address, and home and work telephone numbers of each and every legal and beneficial owner.
 - b. The address of the rental structure.
 - c. The number of dwelling units within the structure.
 - d. In the case of an owner who has designated a property manager, the name, address and phone number of the property manager.

B. Subsection 2 shall be deleted in its entirety and replaced with the following:

2. All licenses shall be due and payable on or before August 31, and the respective licenses shall expire on August 31 next after the date of issue.

C. Subsection 3 shall be amended by deleting the phrase “June 1” and replacing it with the phrase “September 1”, to be and read as follows:

3. Each license application shall be accompanied by a fee as set forth in appendix A, division II of this code. If an application for a renewal of an existing license is received after September 1, the fee shall be increased by fifty percent (50%). If, at the time of application for a license or renewal license, an applicant has been certified as a residential operator for the new licensing period, the fee shall be decreased by ten percent (10%) as to any inspection group to which that certification applies.

D. Subsection 4 shall be amended by deleting the term “agent” and replacing it with the term “manager”, to be and read as follows:

4. Whenever there is a change in the ownership of a rental structure or a change in the owner's property manager, the owners shall, within fifteen (15) days of such change, file a written notice with the code official indicating such change.

SECTION 8: Sub-subsections 6, 8 (introductory paragraph only) and 14 of Subsection A, “Inspection Requirements; License Issuance or Denial”, of Section 23.1816, Inspections by Village, of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be amended by deleting the word “agent” and inserting the word “manager”, to be and read as follows:

6. If any owner, property manager, tenant or other person in control of a rental structure fails or refuses to consent to free access and entry to the property for any inspection pursuant to this article, the code official or designee may, upon approval of the Village Manager, apply to the circuit court for an administrative warrant or other appropriate court order authorizing such inspection. Such an application shall not be a waiver of the village's right to seek other remedies pursuant to this article.

8. If a licensing inspection reveals any violation or warning condition, a compliance time period shall be set by the director. The code official shall serve notice of the violations and/or warning conditions, and the compliance time period on the owner or property manager personally or by regular U.S. mail at the address provided on the most recent license application. The notice shall include the following: (a-e to remain)

14. The Village inspector shall, prior to entering an occupied apartment, give the property manager or owner a reasonable opportunity to be present during the inspection. Unless otherwise specified in a court order or warrant, the inspector will not inspect or search personal property of the owner or tenant. The inspector, while performing the duties of his/her office, will otherwise fully consider the privacy and dignity of the owner and tenant, and will not enter or open closets, medicine cabinets or the other closed cabinets or lockers unless the inspector has reasonable grounds to believe that to do so would establish evidence of code violations. If a tenant desires to be present for an inspection and it would result in an unusual hardship for that resident to be present during regular Village business hours, the inspector shall attempt to conduct the inspection at a time reasonably convenient to the tenant.

SECTION 9: Section 23.1819, “Notification of Violations; Correction, Appeal and Reinspection”, of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be amended by deleting the word “agent” in the first sentence and inserting the word “manager”, to be and read as follows:

Whenever any violation or warning condition is found in any inspection group, the owner or property manager shall be notified of those findings and of the right to appeal such a finding by filing a request for hearing, which must be received by the Village Manager within eight (8) days following the date such notice was personally delivered or placed in the mail. In the event that the property is not in full compliance upon the expiration of a compliance time period, the owner shall be subject to the penalties set forth in section 23.1822 of this article.

SECTION 10: Section 23.1820, “Revocation or Denial of License; Operation Without a License”, of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be amended as follows:

A. Subsection A shall be amended by deleting the phrase “residential operator” in the first sentence and inserting in its place the phrase “property manager”, and inserting the following sentence at the end: “Notice under this paragraph shall be by personal service or mail.”, to be and read as follows:

A. Whenever the director of community development finds that conditions or practices remain in the rental structure or any unit within the rental structure in violation of any applicable regulations, or there are outstanding fees or judgments, the director shall serve the landlord or property manager with a notice of violation, which shall state the violation(s) and provide a list of outstanding fees or judgments. Said notice shall state that unless all such violations are corrected and outstanding fees or judgments satisfied within a reasonable time, of not less than five (5) days nor more than thirty (30) days from the date of the notice, the operator's license will be revoked or denied, as applicable. In the case of a renewal, the notice shall state that issuance of the license will be denied. Notice under this paragraph shall be by personal service or mail.

B. Subsection B shall be amended by deleting the phrases “residential operator” and “operator”, replacing them with the phrase “property manager”, to be and read as follows:

B. Upon expiration of the time allowed to correct any violation and/or satisfy any outstanding fees or judgments, the Village shall reinspect the rental structure and determine if any violations, outstanding fees or judgments remain. If the violations have not been corrected or outstanding fees or judgments remain, the director of community development shall provide notice to the landlord or property manager of a determination to revoke or deny issuance or renewal of the operator's license. Said notice shall inform the landlord or property manager of the right to request a hearing regarding the proposed action, as described in subsection C of this section.

C. Subsection E(2) shall be amended by deleting the number “23.1812” and replacing it with the number “23.1822”, to be and read as follows:

2. The village shall have the right to proceed under section 23.1822 of this article.

D. Subsection G shall be amended by deleting the phrase “residential operator or the listed property agent” and replacing it with the phrase “owner or property manager”, and inserting the phrase “property manager” after the word “landlord”, to be and read as follows;

G. Whenever a license is revoked or denied, or the rental structure is being operated without a license, the director of community development shall send a notice to the landlord or property manager at the last address provided on the most recent license application, or to the landlord, property manager or taxpayer of record if no application is available. The notice shall be sent by regular U.S. mail or served personally. The code official shall also notify the landlord, property manager and all tenants of the rental structure by posting a notice on all entrances to the rental residential structure, containing the name and address of the owner, address and/or name of the multi-family residential structure, and the following statement:

You are hereby notified that the license for this structure has been revoked or denied, or the rental structure is operating without a license. No existing rental agreement or lease shall be renewed and no new rental agreement or lease shall be entered into with respect to any rental unit located within this building.

SECTION 11: Section 23.1821, “Violations, Notice Of Court Proceeding, of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be deleted in its entirety and replaced with the following:

Section 23.1821, Violations, Compliance Notice, Citations.

A. The following shall constitute violations of this article:

1. Violations of the landlord-tenant provisions in Sections 23.1804 through 23.1811 of this article.
2. Violations of the licensing requirements in subsection 23.1815A of this article.
3. Failure of the owners of the rental property to maintain the structure and premises in compliance with applicable Village regulations.
4. Removal or defacement of any notice which has been posted pursuant to this article.

B. Before filing a complaint in court with respect to a violation of this article, the code official may deliver or mail a violation notice to the landlord or property manager requesting compliance, or, in the event that a tenant or lessee has committed a violation, such notice shall be personally delivered or mailed to the tenant or lessee.

C. The code official has authority to issue citations to any persons who violate the provisions of this article. In the event that this article is enforced through the administrative adjudication system, the provisions for service and notice contained in chapter 8, article XXI of this code shall govern.

SECTION 12: Section 23.1822, “Penalties”, of Article XVIII, Residential Landlord and Tenant Regulations, of Chapter 23 of the Village Code, shall be amended by inserting a new Subsection B, the remaining Subsections to be relettered alphabetically, to be and read as follows;

B. In addition to any fines, fees, or costs, the Village may seek a permanent or temporary injunction, restraining order, the appointment of a receiver or such other legal or equitable remedies as may be available.

SECTION 13: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form in the manner provided by law.

AYES: Hoefert, Juracek, Korn, Matuszak, Polit, Zadel

NAYS: None

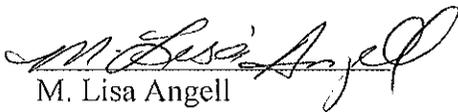
ABSENT: None

PASSED and APPROVED this 20th day of December, 2011.



Irvana K. Wilks
Mayor

ATTEST:



M. Lisa Angell
Village Clerk