

ORDINANCE TO ELIMINATE PUBLIC NUISANCE PRECIPITATED BY PROBLEM PROPERTIES IN THE CITY

City of Boston Code, Ordinances, Chapter XVI, is hereby amended by adding the following subsection

16-55 PUBLIC NUISANCE PROPERTIES.

16-55.1 Purpose

The purpose of this ordinance is to empower the City to police properties that have become a public nuisance by exhibiting a notorious atmosphere of criminal and other disturbing activity so elevated as to endanger the common good and general welfare of a specific neighborhood or the City in general.

16-55.2 Definitions

PUBLIC NUISANCE. A public nuisance is an unreasonable interference with a right common to the general public, such as a condition dangerous to health, offensive to community moral standards, or that otherwise threatens the general welfare of a neighborhood or the City in general through documented pervasive criminal activity, code violations, or other causes precipitating the deployment of any City resource.

PROBLEM PROPERTY A problem property meets the following criteria: The Police Department has been called to the property not fewer than four times within the preceding 12 month period for any incident involving any criminal offense including but not limited to disturbing the peace, trespassing, underage drinking or assault; or 2, the Air Pollution Control Commission has received not fewer than four sustained complaints for noise within the preceding 12 month period; or 3, the Inspectional Services Department or the Public Health Commission have received not fewer than four sustained and upheld complaints within the preceding 12 month period for noxious, noisome or unsanitary conditions. Provided, however, that in making a final designation of a property as a Problem Property, the Chair of the Task Force shall take into consideration the nature of the complaints, the number of dwelling units at the property, and the nature of the use of said property.

16-55.3 Application

Any property in the City that is found by the Mayor's Problem Properties Task Force to be a problem property as defined in section 16-55.2 shall constitute a public nuisance. The Chair of the Task Force shall formally communicate to the Mayor, and the Council President, that a property falling within the definition of Problem Property is a public nuisance. The Chair of the Task Force shall designate the appropriate member of the

Task Force to notify the owner of the property by regular and certified mail and the tenants by affixing a notice of the violation to the front door.

16-55.4 Enforcement

After declaring the problem property a public nuisance, the members of the Task Force heading the originating department or the designee of the Chair of the Task Force shall issue a citation to any or all of the tenants and the owner of the property immediately for perpetuating the public nuisance at the time of any incident requiring the deployment of any City resources or personnel following the property being placed on the problem properties list.

16-55.5 Non-criminal Dispositions

In accordance with Section 21D of Chapter 40 of the Massachusetts General Laws, the City may pursue a non-criminal disposition of any citation issued for violations under this chapter

16-55.6 Penalties

Any tenant residing within or owner of a problem property declared to be a public nuisance cited under this chapter with violations prescribed by the State Sanitary Code or State Building Code shall be fined up to \$300 for each criminal or non-criminal citation authorized by said codes caused by their acts or omissions subsequent to the property being added to the problem property list. If the violation is ongoing, each day that the violation persists will constitute a separate violation for which an additional \$300 fine will be imposed.

16-55.7 Remediation

Any owner of a property determined to be a problem property shall file a management plan with the Inspectional Services Department, within thirty days of having been deemed a problem property that outlines and verifies the owner's strategy and steps devised to bring the property up to code.

16-55.8 Verifiable and Certified Inspection

In order for a property to be removed from the problem properties list by the Problem Properties Task Force, an owner must file with the Inspectional Services Department a sworn statement following an inspection certifying that the property is in compliance with the minimum standards of human habitability for a residential dwelling as set forth in the Massachusetts State Sanitary Code, as it may be adopted or amended from time to time. The inspection shall be performed and the sworn statement shall be signed by an Authorized Inspector which shall be defined as a person who (i) is a Commonwealth of Massachusetts Registered Sanitarian or a Commonwealth of Massachusetts Certified Health Officer or a Commonwealth of Massachusetts Certified Home Inspector, (ii) has

demonstrated a proficiency in the application of the State Sanitary Code by satisfactorily completing the ISD certificate program for qualifying authorized professionals to perform inspections under Section 9-1.3 of the City of Boston Code, and (iii) has been issued a certificate of completion upon payment to ISD of one hundred twenty five dollars (\$125.00). An authorized inspector shall be prohibited from charging more than one hundred thirty three percent (133%) of the fee charged by the City of Boston for an inspection performed under this section.

This section shall not apply to Problem Properties which have been designated due to valid police complaints.

16-55.9 Receivership

Should the owner of a property placed on the problem properties list not respond to the Problem Properties Task Force notification within sixty days, the Inspectional Services Department is authorized to petition the Housing Court for the appointment of a receiver to rehabilitate that property.

16-55.10 Reporting

The Inspectional Services Department shall, no later than three (3) months after the one (1) year anniversary of the enactment date of this ordinance, dispatch to the Mayor, and City Council's Committee on Government Operations, a report on all problem properties that were on the problem properties list during the preceding year.

In City Council JUL 13 2011

Passed

Rosaria Salerno **City Clerk**

Approved

Thomas W. Almeida **Mayor**