

An Ordinance Regarding Penalties for Chronic Problem Properties

- Whereas: Properties where illegal activity occurs on a regular basis have adverse effects on the health, safety, welfare, and quality of life of residents in Boston's neighborhoods; and
- Whereas: Some persons that own or control such properties in the City of Boston, allow their properties to be used for illegal activity, with the result that these properties have become chronic problem properties in the neighborhood; and
- Whereas: The current provisions of the City of Boston ordinance relating to noise and disturbing the peace do not provide an adequate tool for abating such chronic problem properties; and
- Whereas: The City through its public safety, code enforcement and regulatory agencies is in a unique position to gather data on such properties and to establish an active plan tailored to address the specific problems posed by specific properties; and
- Whereas: Chronic problem properties within the City of Boston cause a financial burden upon the City by the numerous calls for service to the properties because of the illegal activities that repeatedly occur or exist on such properties. Now, Therefore,

Be it ordained by the City Council of Boston, as follows:

16-56.1 Penalties for Valid Complaint Problem Properties

(a) Definitions.

The term "Problem Property" shall have the same meaning as set forth in Ordinance 16 – 55 2.

The term "Valid Complaint" shall refer to an investigated finding, documented by on-duty police department personnel dispatched or caused to respond to an incident, that a criminal offense has taken place in a dwelling unit within a property, on a particular property or at a specific location which disturbs the health, safety and welfare of other inhabitants of said property or location. The term shall not include incidents involving an occupant of the premises as the victim of the crime

The term "Police Response" shall mean any and all police action deemed appropriate by the Police Commissioner to protect the health, safety and welfare of inhabitants of a property or location where Valid Complaints have been documented. Coordination of police action shall be subject to the rules and regulations of the police department.

(b) Police Response.

The Police Commissioner, as deemed appropriate to protect the health, safety, and welfare of other inhabitants of a property or location where a Valid Complaint has been made, is hereby authorized and empowered to assign a member or members of the police department to staff as police response on said property or location;

- (i) Upon being dispatched or caused to respond to an incident, in a dwelling unit within a property, on a particular property or at a specific location, involving a criminal offense, police department personnel shall investigate the complaint to determine whether it is a Valid Complaint;
- (ii) Upon finding a Valid Complaint, police department personnel shall make a record of the incident and shall keep, within the department's control, a record of the number of incidents which occur in said dwelling unit within a property, particular property or location;

- (iii) After four (4) Valid Complaint incidents have occurred in a twelve-month period relating to the occupancy of a dwelling unit within a property, on a particular property or at a specific location, the Police Commissioner, or his designee, may notify the Chair of the Mayor's Task Force on Problem Properties and shall submit to the Chair the all-calls report relating to police response at said dwelling, particular property or location;

(c) Duties of the Task Force.

- (i) The Chair shall create a master file of all information received from the Commissioner pertaining to that dwelling unit, particular property or location and shall discuss said information with the members of the Task Force at a monthly meeting held at City Hall;
- (ii) If a specific address falls within the definition of a Problem Property, the Chair of the Task Force shall notify, in writing, the property owner by regular and certified mail, return receipt requested, sent to the property owner's residence or usual place of business that is on record at the assessor's office. The Task Force notification shall identify:
 - a. The property owner and list the specific address that has been designated a problem property;
 - b. The number of Valid Complaint incidents which have occurred on said property within a twelve-month period;
 - c. The Boston Police District Captain the property owner may contact to coordinate a plan to resolve the incidents at the particular property or location, and/or inform the Boston Police of problem occupant(s);
 - d. Where and to whom the property owner must address a letter of appeal of the Task Force's decision;
- (iii) 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.
- (iv) Upon receipt of confirmation from the Police Commissioner, or his designee, that the owner of a particular property deemed problematic has cooperated with the Boston Police Department in addressing each specified Valid Complaint, the Task Force shall remove said property from designation as a Problem Property;

(d) Cost of Police Response Assigned to Problem Properties

- (i) The Police Commissioner, or his designee, shall keep an accurate record of the cost of police response to a dwelling unit within a property, a particular property or a specific location, and such record shall include the number of officers who are part of the determined response;
- (ii) The Police Commissioner shall forward such record to the Collector-Treasurer;
- (iii) After eight (8) Valid Complaint incidents in a twelve-month period relating to occupants of a dwelling unit within a property, a particular property or a specific location, the Police Commissioner, at his discretion, shall determine whether the cost of a police response should be assessed to the property owner and shall notify and submit said determination to the Chair of the Task Force;

- (iv) The Chair of the Task Force shall notify, in writing, the property owner of the Commissioner's decision to assess the cost of the police response. The Task Force notification shall:
- a. Be delivered by regular and certified mail, return receipt requested, sent to the property owner's residence or usual place of business that is on record at the assessor's office;
 - b. Identify the number of Valid Complaint incidents that have occurred since the first notification;
 - c. Where appropriate, inform the property owner of his failure to contact the Boston Police District Captain to coordinate a plan to resolve the incidents at a dwelling unit within a property, particular property or location, and/or inform the Boston Police of problem occupant(s);
 - d. Inform the property owner that he shall be subject to the penalties addressed in subsection (e);
 - e. Indicate where and to whom the property owner must address a letter of appeal of police response costs assigned to him;
 - f. Inform the property owner he has seven (7) days to file an appeal;
- (v) The Police Commissioner should consider the following factors in making his decision to assess costs:
- a. The nature, scope, and seriousness of the incident(s);
 - b. Whether the incident(s) resulted in an arrest;
 - c. A history of criminal activity taking place at the property or location;
 - d. The property owner's, and occupant's, willingness to cooperate with police;
 - e. The total number of properties owned by the property owner relative to the number of said properties deemed problematic;
- (vi) Nothing in this ordinance shall limit the statutory authority of the Police Commissioner to investigate crimes, allocate police resources and enforce the laws of the Commonwealth of Massachusetts and the City of Boston;

(e) Penalties.

- (i) The Collector-Treasurer is hereby authorized and empowered to bill the property owner for the costs the City incurred for its police response in addition to any incidental costs during the period of police response to the particular property or location. The property owner is responsible for payment of the bill in full within thirty (30) days of receiving the bill. All amounts collected by the Collector-Treasurer shall be deposited into the general fund of the City;
- (ii) Any unpaid bill for police response, including interest and/or collection costs, shall be added to the real estate tax on the property and collected as part of that tax. Failure to pay real estate taxes

will render the property owner delinquent and the Collector-Treasurer shall commence foreclosure proceedings;

(c) Property Owner's Rights.

- (i) The property owner may, within seven (7) days of receipt of the Task Force's notification, appeal the Commissioner's decision to assess costs by requesting, in writing, a hearing before a three (3) person panel appointed by the Mayor;
- (ii) A three (3) person panel appointed by the Mayor shall be assembled as follows:
 - a. At least one member shall be a nominee of the Greater Boston Real Estate Board;
 - b. One seat on the panel shall be appointed to a member of a neighborhood crime watch, a member of a neighborhood association and a member of a community development corporation, who shall rotate in their service on the panel;
 - c. The third member shall be a resident of the City of Boston;
- (iii) Once the panel makes a decision it must be in writing. If the panel finds in favor of the property owner, the cost of the penalty shall be abated;

(d) Eviction.

In the event the property owner has, in good faith, commenced eviction proceedings against the tenant(s) responsible for the incidents at the property, then the application of this ordinance shall be stayed until the eviction process is concluded. The Police Commissioner of the department may continue police response at the particular property or location, at his discretion, at all times after the eviction proceeding has been completed; provided, however, that such costs shall not be assessed to the property owner if the eviction proceedings conclude in favor of the property owner.

(e) Charges to Constitute Municipal Lien Pursuant to MGL c. 40 s 58

All charges to recover costs imposed in this ordinance shall constitute a municipal lien on the property so charged in accordance with Massachusetts General Laws chapter 40 section 58.

(f) Report.

The Chair of the Task Force shall submit a report to the Mayor and City Council no later than three (3) months after the one (1) year anniversary of the enactment date of this ordinance. This report shall include the total cost of administration of this ordinance, as well as an accounting of all revenues collected in association with it. Said report shall also contain data regarding all dwellings within a property, particular properties or locations which remain problem properties and those that are no longer designated as problem properties. The report shall also include the general impact, if any, that the implementation of this order has had on the health, safety, and welfare of residents of the City of Boston.

In City Council JUL 13 2011

Passed

Rosaria Salerno **City Clerk**

Approved

Tom W. Menino **Mayor**