

Chapter 72

CHRONIC PUBLIC NUISANCE ABATEMENT

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[HISTORY: adopted by the Town Board of the Town of Patterson 2-11-2009 by L.L. No. 1-2009; Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings _ See Ch. 67

Garbage, rubbish and refuse - See Ch. 97

Noise - See Ch. 109

Abandoned vehicles - See Ch. 147

§ 72-1. Legislative Findings

A. The Town Board of the Town of Patterson finds that a small percentage of persons who own or control real property in the Town of Patterson have allowed their property to be used for illegal purposes, or have otherwise failed to properly maintain their property in accordance with the Town Code of the Town of Patterson or the New York State Uniform Building and Fire Code. Where the violations are habitual, these properties interfere with the comfort, health, solitude and quality of life of the individuals residing in the neighborhood, they have created a significant impact upon the living conditions in the Town's neighborhoods, and they have raised justifiable concerns about public safety. Chronic public nuisance activity have been found to contribute to the general decay of affected neighborhood, which results in a lowering the value of surrounding properties.

B. As a result of the activities occurring at these properties, and/or the conditions in which they are maintained, these properties tend to receive and require more than the general, acceptable level of Law and Codes Enforcement services, and place an undue and inappropriate burden on the Town of Patterson taxpayers. The Town Board of the Town of Patterson has determined that existing laws have not sufficiently encouraged such property owners to take reasonable steps to abate the nuisances that their property is creating, and has determined that enhanced penalties will give such property owners additional incentives to ameliorate the said problems, and help to compensate the Town for the increase in Code Enforcement services.

C. This local law is enacted to encourage Property owners to recognize their responsibility to ensure that activities occurring on their Property conform to the law and do not adversely affect their neighborhoods, unduly burden the Town's Code Enforcement resources and to provide a mechanism for the Town to take action against Property owners who fail to ensure Property they own does not require a disproportionate level of Code Enforcement resources to be devoted to such Property. This Chapter is not intended to discourage crime victims or a person in legitimate need of police services from requesting them. This section does not affect a Property owner's duty to comply with all other laws governing residential tenancies which are contained in the New York State Statutes.

§ 72-2. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CHRONIC PUBLIC NUISANCE - Any property that meets any of the following criteria:

A. Two or more incidents of a public nuisance activities listed below, which occurs during any 30-day period; or

B. Three or more incidents of a public nuisance activities listed below which occurs during any 90-day period; or

C. Five or more incidents of a public nuisance activities listed below which occurs during any 365-day period.

NOTICE OF VIOLATION - Notice sent by the office of the Director of Codes Enforcement that a potential violation of a property under the Patterson Town Code, or the New York State Building and Fire Code has been observed, and which may or may not include a period in which the property owner may correct the violation.

OWNER- Any person having a vested or contingent interest in the property in question, as shown on the most recent deed filed with the County Clerk of the County of Putnam.

PUBLIC NUISANCE - Public nuisance shall include any activities that occurs on, or in any building, structure or real property, and committed by an owner, tenant, renter, leasee, occupant, or guest thereof, and constitutes a violation of the Town Code of the Town of Patterson, the New York State Uniform Fire Prevention and Building Code, or the Laws of the State of New York, including but not limited to the following :

A. Any building, structure or real property wherein there exists or has occurred any violation of the Patterson Town Code, or the New York State Uniform Fire Prevention and Building Code, including the Property Maintenance Code of New York State, and any subsequent amendments or superseding provisions thereto.

B. Any building, structure or real property used for the purpose of illegal use, possession or distribution of a controlled substance or marijuana as defined by the New York State Penal Law.

C. Any building, structure or real property used for the purposes of prostitution as defined by the New York State Penal Law.

D. Any building, structure or real property used for purposes of indecency, obscene performances and/or promotion of obscene material as defined by the New York State Penal Law and this Code.

E. Any building, structure or real property used for purposes of illegal gambling activity as defined in the New York State Penal Law.

F. Any building, structure or real property used for the purpose of the commission of illegal possession, use or sale of firearms or weapons as defined by the New York State Penal Law.

G. Any building, structure or real property where alcoholic beverages have been sold, offered for sale or given to persons under the age of twenty-one.

H. Any building, structure or real property used for the purpose of illegal sale, manufacture or consumption of alcohol beverages as defined by the New York State Alcohol Beverage Control Law.

I. Any building, structure or real property wherein there exists or has occurred a criminal nuisance as defined by the New York State Penal Law.

J. Any building, structure or real property used for purposes of loitering as defined by the New

York State Penal Law, or of the Patterson Town Code.

K. Any building, structure or real property wherein an occupant, guest or business invitee conducts or performs activities or behaves in a manner that detrimentally effects the quiet and reasonable use and enjoyment of adjacent or neighboring property as such conduct and activities are defined by the New York State Penal Law, or the Patterson Town Code

§ 72-3. Presumption of violation.

For the purposes of this Chapter, it shall be presumed that a violation has occurred upon the issuance of either an appearance ticket, or a violation, or a Notice of Violation by the Director of Codes Enforcement, or of an arrest or violation by a peace officer, unless said appearance ticket, notice of violation, violation or arrest has been decided otherwise by a court of competent jurisdiction.

§ 72-4. Nuisance forbidden.

No owner, operator, manager, tenant, lessee or other occupier of a building, structure or real property shall knowingly conduct, maintain, permit or allow the existence of a public nuisance, or of a chronic public nuisance at the building, structure or real property. Any person, whether owner, operator, manager, tenant, lessee or other occupier, who permits a chronic nuisance on property under their ownership or control shall be in violation of this chapter.

§ 72-5. Presumption of knowledge.

Notice by first class mail or personal service of activities entailing a public nuisance to the property owner, operator, manager, tenant, lessee or other occupier of a building, structure or real property shall be prima facie evidence of knowledge of the public nuisance.

§ 72-6. Director of Codes Enforcement.

A. It shall be his duty of the Director of Codes Enforcement to enforce the provisions of this chapter.

B. A copy of every violation, or every notice of violation issued to any operator, manager, tenant, lessee or other occupier of a building, structure or real property, shall also be delivered by first class mail or personal service to the owner of said property.

C. The Director of Codes Enforcement shall maintain a log of all time spent on a potential violation of a property which may be considered a chronic public nuisance. This subsection shall not apply to any initial violation issued to a property owner.

§ 72-7. Penalties for offenses.

A. Any person or corporation, whether as owner, lessee, principal, agent, employee or otherwise, which violates the provisions of this chapter or permits any such violation or fails to comply with any of the requirements thereof shall be guilty of a violation, punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine of not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars not more than one thousand dollars or imprisonment for a period not to exceed six months, or both. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or any part thereof or any condition or requirement of subdivision approval shall be deemed misdemeanors. Each week's continued violation shall constitute a separate additional violation.

B. In addition, any penalty for a violation issued pursuant to subsection A, above, any fine imposed [may] shall include an amount commensurate with the time spent by the Director of Codes Enforcement addressing any public nuisance, or chronic public nuisance

C. Complaints of violations. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints filed by an individual must be in writing and filed with the Code Enforcement Officer, who shall properly record such complaint and immediately investigate and report thereon to the Town Board. This Section shall not relieve the Building Department from investigating or acting upon any violation of which they are made aware.

D. Accountability. For every violation of the provisions of this chapter, the owner, agent, contractor, lessee, ground lessee, tenant, licensee, or any other person who commits, takes part, or assists in such violation or who maintains any structures or premises in which any such violation exists shall also be punishable according to the provisions of this chapter.

E. Upon the failure or refusal of the Code Enforcement Officer or Town Board to institute an appropriate legal action or proceeding for a period of 10 days after written request by a resident owner of real property of the town to do so, any three owners of real property of the town residing in the district in which such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in the same manner as the Director of Codes Enforcement or Town Board.

F. For the purposes of this Chapter, a conviction for an offense in a court of competent jurisdiction for a public nuisance as defined herein, shall not be required to establish that a violation of this Chapter has occurred.

§ 72-8. Severability.

If any clause, sentence, paragraph, word, section or part of this Chapter shall be adjudged

by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof, directly involved in the controversy in which said judgment shall have been rendered.