

## ORDINANCE

**AN ORDINANCE AMENDING CHAPTER 12 ("HOUSING"), ARTICLE 2 ("RESIDENTIAL RENTAL LICENSE"), SECTION 12-2-12 ("CRIME FREE HOUSING") AND CHAPTER 16 ("NUISANCES") ARTICLE 3 ("CRIMINAL NUISANCE ABATEMENT"), SECTION 16-3-6 ("ABATEMENT – ADMINISTRATIVE HEARING; RELIEF; FINES") AND SECTION 16-3-7 ("ALTERNATIVE ENFORCEMENT") OF THE OAK PARK VILLAGE CODE**

**WHEREAS**, the Village of Oak Park ("Village") is a home rule unit of government as provided by the provisions of Article VII, Section 6 of the Illinois Constitution of 1970; and

**WHEREAS**, as a home rule unit of government, the Village is expressly empowered to perform any function pertaining to its government and affairs, including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, the Village President and Board of Trustees have determined to amend the Oak Park Village Code to replace language regarding crime free housing requirements for residential rental license holders and replace the language with required attendance at an annual landlord management seminar by licensees as more fully set forth herein.

**NOW THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

**Section 1. Recitals Incorporated.** The above recitals are incorporated herein by reference as though fully set forth.

**Section 2. Village Code Amended.** Chapter 12 ("Housing"), Article 2 ("Residential Rental License"), Section 12-2-12 ("Crime Free Housing Seminar") of the Oak Park Village Code is hereby amended to add the underlined and delete the overstricken language as follows:

**12-2-12: ~~CRIME FREE~~ ANNUAL LANDLORD MANAGEMENT HOUSING SEMINAR:**

A. A residential rental license shall not be issued until the owner or designated agent has attended and successfully completed an annual ~~crime-free~~ landlord management housing seminar conducted by the Village's Development Customer Services Department. All license applicants shall comply with the annual seminar requirement within one year of applying for a license or within one year of applying for a license renewal and shall attend and complete the annual seminar every year thereafter. Licenses shall be null and void if the owner or designated agent fails to comply with the seminar requirement pursuant to this section.

B. In the event that an owner or designated agent applies for a residential rental license and has met all other license requirements, but ~~a crime-free housing~~ an annual landlord management seminar is not available, a provisional license may be issued, effective for no more than one year from the date of issuance, subject to attendance and successful completion by the operator, or

his/her designated agent, of that seminar within that time period. Upon completion of the seminar within that time period, a rental residential license shall be issued for the balance of the year.

C. In the event that a designated agent attends the ~~crime-free housing~~ annual landlord management seminar to comply with this section, and that agent is no longer employed by the owner to be responsible for managing the rental residential dwelling unit under the license, the owner or a newly designated agent shall attend and successfully complete the seminar within twelve (12) months of that event.

D. An owner or designated agent of an owner may be certified as an operator upon issuance of a rental residential license, and a certificate of completion of the ~~crime-free housing~~ annual landlord management seminar. The certification as an operator shall be issued on an annual basis, ~~subject to annual compliance with the above requirements.~~

E. At any time after two (2) years from the date of the issuance of a license, an operator or designated agent may be required to attend and successfully complete the ~~crime-free housing~~ annual landlord management seminar. Such requirement shall be subject to the determination of the Village's Development Customer Services Department which shall consider ~~the following in making such determination:~~ whether the rental property that is the subject of the license is at risk of becoming a nuisance rental property as defined in this Code.

~~1. Whether the rental property, subject to the residential operator's license, is in danger of becoming a nuisance rental property as defined in this section; and~~

~~2. Whether criminal activity is occurring on the premises and the landlord has failed to initiate eviction proceedings or take other appropriate action.~~

F. A rental residential license shall not be renewed if attendance is required and not completed within three (3) months of the notice to that effect. Such notice shall be delivered or mailed to the landlord, or designated agent, at the address designated on the most recent license application.

G. The Village's Development Customer Services Department shall maintain a list of landlords and/or designated agents who have attended the ~~crime-free housing~~ annual landlord management seminar and/or who are certified residential operators, along with the dates of attendance and verification that the landlord or designated agent has otherwise complied with this code to be eligible for issuance or renewal of a residential operator's license.

~~H. Upon adoption of this section, every subsequent 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 or in a form subject to the approval of the Village Manager:

***CRIME FREE HOUSING LEASE PROVISION***

***Prohibition Against Criminal Activity on Premises***

~~1) The Tenant, any member of the Tenant's household, the Tenant's guest(s), and any person under the Tenant's control shall not engage in or facilitate criminal activity on the leased premises or on the Lessor's property, which includes the leased premises, at \_\_\_\_/\_\_\_\_/\_\_\_\_.~~

~~2) The Tenant, any member of the Tenant's household, the Tenant's guest(s), and any person under the Tenant's control shall not permit the leased premises to be used for, or to facilitate, criminal activity, regardless of whether the individual engaging in such activity is a member of the household, or a guest.~~

~~3) 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 any breach of the lease agreement that jeopardizes the health, safety, and welfare of the landlord, his agent, or other tenant, or involves imminent or actual serious property damage.~~

~~4) The Tenant is vicariously liable for the criminal activity of any member of the Tenant's household, Tenant's guest(s), and any person under Tenant's control, whether or not the Tenant had knowledge of the activity or whether or not the household member or guest was under the Tenant's control.~~

~~5) One or more violations of subsections 1, 2, or 3 of this Lease Section constitute a substantial violation and a material noncompliance with the Lease. Any such violation is grounds for termination of tenancy and eviction from the leased premises. Unless otherwise required by law, proof of violation shall not require a criminal conviction, but shall by a preponderance of the evidence.~~

~~6) In case of conflict between the provisions of this addendum and any other provision of the lease, the provisions of this addendum shall govern.~~

~~7) For purposes of this Lease Section, criminal activity shall mean:~~

~~a) Any offense defined and prohibited by Article 9 (Homicide) of the Criminal Code of 2012, 720 ILCS 5/9-1, et seq.~~

~~b) Any offense defined and prohibited by Article 10 (Kidnapping and related offenses) of the Criminal Code of 2012, 720 ILCS 5/10-1, et seq.~~

~~c) Any offenses defined and prohibited by Article 11 (Sex Offenses), Subdivision 15 (Prostitution Offenses) of the Criminal Code of 2012, 720 ILCS 5/11-14, et seq.~~

~~d) Any offense defined and prohibited by Article 12 (Bodily Harm) of the Criminal Code of 2012, 720 ILCS 5/12, et seq.~~

~~e) Any offense defined and prohibited by Article 16 (Theft) of the Criminal Code of 2012, 720 ILCS 5/16-1, et seq.~~

~~f) Any offense defined and prohibited by Section 20-2 (Possession of Explosives or Incendiary Devices) of the Criminal Code of 2012, 720 ILCS 5/20-2, et seq.~~

~~g) Any offense defined and prohibited by Article 21-1 (Damage and Trespass to Property) of the Criminal Code of 2012, 720 ILCS 5/21-1, et seq.~~

~~h) Any offense defined and prohibited by Article 24 (Deadly Weapons) of the Criminal Code of 2012, 720 ILCS 5/24-1, et seq.~~

~~i) Any offense defined and prohibited by Article 25 (Mob Action) of the Criminal Code of 2012, 720 ILCS 5/25-1, et seq.~~

~~j) Any offense defined and prohibited by Article 26 (Disorderly Conduct) of the Criminal Code of 2012, 720 ILCS 5/26-1, et seq.~~

~~k) Any offense defined and prohibited by Article 28 (Gambling) of the Criminal Code of 2012, 720 ILCS 28-1, et seq.~~

~~l) Any offense defined and prohibited by Article 31 (Interference with Public Officers) of the Criminal Code of 2012, 720 ILCS 5/31-1, et seq.~~

~~m) Any offense defined and prohibited by Section 37-1 (Maintaining Public Nuisance) of the Criminal Code of 2012, 720 ILCS 5/37-1.~~

~~n) Any offense defined and prohibited by Section 6-16 (Prohibited Sales and Possession) or Section 6-20 (Transfer, Possession, and Consumption of Alcoholic Liquor; Restrictions) of the Liquor Control Act of 1934, 235 ILCS 5/6-16 and 5/6-20.~~

~~o) Any offense defined and prohibited by the Cannabis Control Act, 720 ILCS 550/1, et seq.~~

~~p) Any offense defined and prohibited by the Illinois Controlled Substances Act, 720 ILCS 570/1, et seq.~~

~~q) Any inchoate offense defined and prohibited by Article 8 (Inchoate Offenses) of the Criminal Code of 2012, 720 ILCS 5/8-1, et seq., which is relative to the commission of any of the aforesaid principal offenses.~~

~~r) Any offense that constitutes a felony under state or federal law or Class A misdemeanor under state law.~~

~~8) The Tenant shall be entitled to the affirmative defense set forth in Section 9-106.2 of the Forcible Entry and Detainer Act, 735 ILCS 5/9-106.2, regarding domestic or sexual violence as those terms are defined in Section 10 of the Safe Homes Act, 765 ILCS 750/10, as amended, stalking as that term is defined in the Criminal Code of 2012, 720 ILCS 5/12-7.3, and dating violence, and Section 9-106.2 is incorporated herein by reference as though fully set forth.~~

~~9) Pursuant to 65 ILCS 5/1-2-1.5, as amended, no tenant, landlord, guest, neighbor, or other individual shall be penalized for the following:~~

~~a) contact made to the 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 of 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 violation of this code 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.~~

**Section 3. Village Code Amended.** Chapter 16 ("Nuisances"), Article 3 ("Criminal Nuisance Abatement"), Section 16-3-6 ("Abatement – Administrative hearing; Relief; Fines"), and Section 16-3-7 ("Alternative Enforcement") of the Oak Park Village Code is hereby amended to add the underlined and delete the overstricken language as follows:

**16-3-6: ABATEMENT - ADMINISTRATIVE HEARING; RELIEF; FINES:**

A. A notice of violation shall be adjudicated pursuant to the procedures set forth in chapter 29, article 1, "Administrative Adjudication System", of this code, with the exception that section 29-1-12, "Notice Of Violation; Notice Of Hearing; Service", of this code as amended, shall not be applicable.

B. In an action seeking the abatement of a criminal nuisance property, the Village shall establish by a preponderance of the evidence that the property is a criminal nuisance property. The owner or person in charge shall be permitted to rebut such evidence and present any other evidence that is, in the discretion of the hearing officer, relevant and reliable.

C. It shall be an affirmative defense by the owner or person in charge of rental or leased property to an action seeking a determination that a property is a criminal nuisance property that the owner or person in charge at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become a criminal nuisance property, or could not, in spite of the exercise of reasonable care or diligence, control the conduct of tenants or others in possession leading to the finding that the property is a criminal nuisance property, or could not, in spite of the exercise of reasonable care and diligence, obtain an order for possession of the property pursuant to the provisions of the forcible entry and detainer act, 735 Illinois Compiled Statutes 5/9-101 et seq., or that the owner or person in charge was the victim of the crime, including, but not limited to, an act of domestic or sexual violence as those terms are defined in section 10 of the safe homes act, 765 Illinois Compiled Statutes 750/10, or stalking as that term is defined in the criminal code of 2012, 720 Illinois Compiled Statutes 5/12-7.3.

D. At the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented at the hearing, whether or not the property is a criminal nuisance property. The determination shall be in writing and shall be designated as the findings, decisions, and order. The hearing officer's decision shall be final and binding and subject to review under the Illinois administrative review law as set forth in section 29-1-11 of this code, as amended. The findings, decision and order shall include the hearing officer's findings of fact, a decision whether or not the property is a criminal nuisance property based upon the findings of fact, and an order for abatement of the nuisance activities or sanctioning the person in charge or the owner, or entering a finding that a violation is not proved.

1. A copy of the findings, decision, and order shall be served upon the person in charge or the owner if different than the person in charge, within ten (10) business days. Service shall be in the same manner as set forth in section 16-3-5 of this article.

2. In the event that the order provides for the abatement of criminal nuisance activities, the hearing officer shall establish a status date after the date established for the abatement of the criminal nuisance activities in order to determine whether there has been compliance with the order. At such time, the hearing officer shall hear testimony and accept any evidence relevant to the compliance with the order and continued abatement of the nuisance activities.

E. If the hearing officer makes a finding that a property was, or is, a criminal nuisance property, the hearing officer may impose any or all of the following remedies:

1. Fine the person in charge or the owner if that person is different than the person in charge, not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) for each violation of this article. Each day a criminal nuisance activity occurs or continues it shall be considered a separate and distinct violation. The hearing officer may at his or her discretion impose such a fine for each day the criminal nuisance activity goes unabated.

2. In establishing the amount of any fine and any other remedies, the hearing officer may consider any of the following factors:

- a. The actions taken by the person in charge or the owner to mitigate or correct the criminal nuisance activities at the property.
- b. The repeated or continuous nature of the activities.
- c. The magnitude or gravity of the activities.
- d. The cooperation of the person in charge or the owner with the Village.
- e. The cost to the Village of investigating, correcting, or attempting to correct the criminal nuisance activities.
- f. The disturbance of neighbors.
- g. The recurrence of loud and obnoxious noises.
- h. Any other factor deemed relevant by the hearing officer.

3. Order the person in charge and/or the owner to take reasonable, timely and lawful measures to abate the criminal nuisance activities, including specifying deadlines for the same, and in furtherance thereof, may order a period of continued compliance wherein the matter will be returned before the hearing officer to inform the hearing officer as to the continued nuisance free status of the property for a period of up to one year.

4. Suspend or revoke the residential rental license for the rental unit(s) involved in the nuisance if the property is subject to such a license.

5. The hearing officer may order that said rental unit(s) be closed and secured against all unauthorized access, use, and occupancy for a period of up to one year. The suspension or revocation of any license, or any right to lease unit(s), shall not release or discharge the license holder from paying fees or fines under this code, nor shall such license holder be released from criminal prosecution or further civil proceedings.

6. Suspend or revoke the occupancy permit that has been issued by the Village for the property. The hearing officer may order that the property be closed and secured against all unauthorized access, use, and occupancy for a period of up to one year.

7. Close any business, office, commercial warehouse, manufacturing, industrial, office or research operation, plant, or any other commercial property, entity, or use located on or in the criminal nuisance property. The hearing officer may order that the

property be closed and secured against all unauthorized access, use, and occupancy for a period of up to one year.

8. Order that a vacant or unused criminal nuisance property of whatever use or a vacant lot which is a criminal nuisance property, whether residential or commercial, be closed and secured against all unauthorized access, use, and occupancy. The hearing officer may order that the property be closed and secured against all unauthorized access, use, and occupancy for a period of up to one year. The hearing officer may further require that the property be fenced and/or gated to physically restrict access. The hearing officer may also require the hiring of security personnel to assure there is no unauthorized access, use, and occupancy. In the event that the Village is authorized to secure the property, all costs reasonably incurred by the Village to secure the property shall be made and assessed as a judgment against the person in charge or the owner and shall be a debt due and owing the Village. As used herein, "costs" mean those costs actually incurred by the Village for the physical securing of the property.

9. The hearing officer may require each person in charge and/or the owner who is found to have violated this article to attend the next available ~~crime-free housing~~ annual landlord management seminar pursuant to section 12-2-12 of this code, as amended, administered by the Village if the property is subject to a residential rental license.

F. Any person who is assessed the cost of closure or is fined by the hearing officer shall be personally liable for the payment thereof to the Village.

G. The entry of an order by a hearing officer against a tenant pursuant to this section shall not constitute a defense of the obligation to pay rent by such tenant during any applicable effective period of such order.

#### **16-3-7: ALTERNATIVE ENFORCEMENT:**

A. Nuisance Abatement: As an alternative to administrative adjudication, as set forth in section 16-3-6 of this article, the Village may commence an action in the circuit court of Cook County fourth municipal district or chancery division of the circuit court of Cook County for a determination that the property is a criminal nuisance property and/or to abate the criminal nuisance.

B. Injunction: Upon being satisfied by affidavits or other sworn evidence that an alleged criminal nuisance property exists, the court may, without notice or bond, enter a temporary restraining order or a preliminary injunction or permanent injunction to enjoin any defendant from maintaining such criminal nuisance property and may enter an order restraining any defendant named from occupying, using or interfering with all property used in connection with the criminal nuisance property.

C. Commencement Of Action, Burden Of Proof:



1. In an action seeking a determination that a property is a criminal nuisance property, the Village shall have the initial burden of showing by a preponderance of the evidence that the property is a criminal nuisance property. The owner or person shall be permitted to rebut such evidence and present any other evidence that is, in the discretion of the court, relevant and reliable.

2. It shall be an affirmative defense by the person in charge or the owner of rental or leased property to an action seeking a determination that a property is a criminal nuisance property that the owner or person in charge at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become a criminal nuisance property, or could not, in spite of the exercise of reasonable care or diligence, control the conduct of tenants or others in possession leading to the finding that the property is a criminal nuisance property, or could not, in spite of the exercise of reasonable care and diligence, obtain an order for possession of the property, pursuant to the provisions of the forcible entry and detainer act, 735 Illinois Compiled Statutes 5/9-101 et seq., or that the owner or person in charge was the victim of the crime, including, but not limited to, an act of domestic or sexual violence as those terms are defined in section 10 of the safe homes act, 765 Illinois Compiled Statutes 750/10, or stalking as that term is defined in the criminal code of 2012, 720 Illinois Compiled Statutes 5/12-7.3.

3. In establishing the amount of any civil penalty or other relief requested, the court may consider any of the following factors, if they are found appropriate, and shall cite those found applicable:

a. The actions or lack of action taken by the person in charge or the owner to mitigate or correct the criminal nuisance activities at the property;

b. Whether the criminal activities at the property were repeated or continuous;

c. The magnitude or gravity of the criminal nuisance activities at the property;

d. The cooperation of the person in charge or the owner of the property with the Village to correct the offending condition or abate the nuisance;

~~e. Whether the owner or property manager, in the event of rental or leased property, has required the tenant(s) to sign a "crime free lease addendum";~~

~~f. e.~~ Whether the person in charge or the owner has attended the Village's crime free housing annual landlord management seminar; and

g f. The cost to the Village of investigating and correcting or attempting to correct the condition.

D. Remedy:

1. In the event a court determines a property to be a criminal 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 until the criminal nuisance activity or violation is abated. In addition, the court may employ any other remedy deemed by it appropriate to permanently abate the nuisance, including the entry of a permanent injunction enjoining any tenants, co-tenants, and/or occupants responsible or partially responsible for the property becoming a criminal nuisance property from future use, occupancy of or presence at or upon the property.

2. In addition to the remedy provided in subsection 16-3-7D1 of this section, the court may impose upon the person in charge or the owner of the property in question a civil penalty in an amount not to exceed the sum of seven hundred fifty dollars (\$750.00) per day, payable to the Village of Oak Park, for each day the person in charge or the owner had actual knowledge that the property was a criminal nuisance property and permitted the property to remain a criminal nuisance property.

3. In determining what remedy or remedies to employ, the court may consider evidence of other conduct which has occurred on the property, including, but not limited to:

- a. The disturbance of neighbors;
- b. The occurrence of other criminal nuisance activities at, on or from the property;
- c. The property's general reputation for criminal nuisance activity;
- d. Physical damage to the property in question or surrounding properties;  
and
- e. Any hazard posed to any occupant of the property or adjoining property occupant or owner resulting from the physical condition of the property in question or its structures.

E. Secure Property: The court may authorize the Village to physically secure the property against use or occupancy in the event the person in charge or the owner of the property fails to do so within the time specified by the court. In the event that the Village is authorized to secure the property, all costs reasonably incurred by the Village to effect the closure shall be made and

assessed as a judgment against the owner and shall be a debt due and owing the Village. As used herein, "costs" mean those costs actually incurred by the Village for the physical securing of the property.

F. Costs To Secure Property: The Village shall prepare a statement of costs incurred to physically secure the property and any other applicable costs as provided by law, and the Village shall thereafter submit said statement to the court for its review and approval.

G. Payment: Any person who is assessed the cost to physically secure a property and/or civil penalty by the court shall be personally liable for the payment thereof to the Village.

H. Obligation To Pay Rent: The entry of an order or injunction by the court against a tenant pursuant to this section shall not constitute a defense of the obligation to pay rent by such tenant during any applicable effective period of such order or injunction.

**Section 4. Severability and Repeal of Inconsistent Ordinances.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5. Effective Date.** This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

**ADOPTED** this 6<sup>th</sup> day of June, 2022, pursuant to a roll call vote at follows:

Voting	Aye	Nay	Abstain	Absent
President Scaman				
Trustee Buchanan				
Trustee Enyia				
Trustee Parakkat				
Trustee Robinson				
Trustee Taglia				
Trustee Walker-Peddakotla				

**APPROVED** this 6<sup>th</sup> day of June, 2022.

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Vicki Scaman, Village President

**ATTEST**

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Christina M. Waters, Village Clerk

Published in pamphlet form this 6<sup>th</sup> day of June, 2022.

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Christina M. Waters, Village Clerk