

ORDINANCE NO. 519

An Ordinance To Create Chapter 20 Of The General Ordinances Of The Village Of River Hills Related To Excessive Police, Building Inspector or Health Department Responses, Abatement Plans and the Assessment of Charges to the Property Owner of Chronic Nuisance Premises in the Village of River Hills.

WHEREAS, upon the recommendation of the Chief of Police and the Village Attorney, the Village Board finds that premises owners that chronically fail to control the use of their property substantially interfere with the comfortable enjoyment of life, health and safety of our community and that adoption of this ordinance will be in the interest of the public health, safety, and general welfare of the Village;

THEREFORE, the Village Board of the Village of River Hills, Milwaukee County, Wisconsin, does hereby ordain as follows:

SECTION I. That Chapter 20 of the General Ordinances of the Village of River Hills is hereby created to read as follows:

“CHAPTER 20 CHRONIC NUISANCE PREMISES

Section 20.01	Findings
Section 20.02	Definitions
Section 20.03	Procedure
Section 20.04	Abatement Plan
Section 20.05	Penalties for Failure to Comply with Abatement Plan
Section 20.06	Additional Nuisance Activity
Section 20.07	Eviction or Retaliation Prohibited
Section 20.08	Appeal

Section 20.01 Findings

The Village Board finds that any premises that generates three or more responses in a one year period by the Police Department, the Building Inspector, or the Health Department for nuisance activities as defined in Section 20.02 below, has received more than the level of general and adequate Village service and has placed an undue and inappropriate burden on the taxpayers of the Village. The Village Board therefore authorizes the Chief of Police, as provided in this chapter, to require the premises owners to comply with nuisance abatement plans and to charge the owners of such premises the costs associated with abating the violations at the premises where nuisance activities chronically occur.

Section 20.02

Definitions

- A. The following terms shall be defined as follows in this article, and the singular includes the plural and the plural includes the singular:

BUILDING INSPECTOR RESPONSE – The River Hills Building Inspector went to the premises for an inspection at the premises and as a result thereof, a citation is issued for a violation of the Building or Zoning code.

CHIEF — The Chief of Police or his or her designee.

HEALTH DEPARTMENT RESPONSE - A member of the North Shore Health Department went to the premises for an inspection at the premises and as a result thereof, a citation is issued for a violation of any provision of the River Hills code that the Health Department is responsible for enforcement.

OWNER — A person who has legal title or possession, charge, care or control of premises, including as executor, administrator, trustee, or guardian of the estate of a person or property.

PERSON — Includes a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, limited liability company or any other legal entity.

PERSON ASSOCIATED WITH PREMISES — The premises owner, operator, manager, resident, occupant, guest, visitor, or person present on the premises (other than trespasser) or employee or agent of any of the above persons associated with the premises.

POLICE DEPARTMENT RESPONSE — At least one sworn on-duty River Hills police officer went to a premises and the event is logged in the Police Department's record of police activity.

PREMISES — An individual building, dwelling, or dwelling unit and associated common areas or vacant land.

- B. "Nuisance activity" means any of the following activities, behaviors, or conduct whenever engaged in by persons associated with a premises that causes or results in:

- (1) An act of harassment, as defined in § 947.013, Wis. Stats.
- (2) Disorderly conduct, as defined in § 947.01, Wis. Stats.
- (3) Battery, substantial battery, or aggravated battery, as defined in § 940.19, Wis. Stats.
- (4) Lewd and lascivious behavior, as defined in § 944.20, Wis. Stats.
- (5) Prostitution, as defined in § 944.30, Wis. Stats.

- (6) Theft, as defined in § 943.20, Wis. Stats.
- (7) Receiving stolen property, as defined in § 943.34, Wis. Stats.
- (8) Arson, as defined in § 943.02, Wis. Stats.
- (9) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Ch. 961, Wis. Stats.
- (10) Gambling, as defined in § 945.02, Wis. Stats.
- (11) Trespassing, as defined in §§ 943.13 and 943.14, Wis. Stats.
- (12) The execution of arrest or search warrants at a particular premises.
- (13) Alcohol violations, as defined in Chapter 16 of the Village Code, and § 125.07, Wis. Stats.
- (14) Obstructing or resisting an officer, as defined in § 946.41, Wis. Stats.
- (15) Violation of occupancy restrictions, as defined in the Village Code.
- (16) Village of River Hills Building Inspector response where the Police Department also responds or any Building Inspector response that results in the issuance of a citation for violation of the Village Zoning or Building Codes.
- (17) Health Department response where the Police Department also responds or any Health Department response that results in the issuance of a citation for violation of the Village Code.
- (18) Any conspiracy to commit, as defined in § 939.31, Wis. Stats., or attempt to commit, as defined in § 939.32, Wis. Stats., any of the activities, behaviors, or conduct enumerated in this Subsection B.

Section 20.03 Procedure

A. Whenever the Chief determines that the Police Department, Building Inspector or the Health Department has responded to three or more nuisance activities that have occurred at a premises during any consecutive twelve-month period, the Chief may notify the premises owner in writing that the premises constitutes a chronic nuisance. In calculating the requisite nuisance activities, the Chief may count separate qualifying nuisance activities occurring on the same day (as long as they are distinct in time) or different days and further may consider whether or not to count a qualifying nuisance activity when it is reported by a person associated with the premises under circumstances that would encourage and not penalize self-reporting and facilitate police response for the benefit of the community. Pursuant to §66.0627 (7), Wis Stats., police department responses related to (a) Domestic abuse, as defined in s. 813.12 (1) (am), (b) Sexual assault, as described under ss. 940.225, 948.02, and 948.025, or (c) Stalking, as described in s. 940.32 shall not be used in calculating the nuisance activities to constitute a chronic nuisance. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and

a notice as to the appeal rights of the owner.

B. The notice required in paragraph A immediately above shall be deemed to be properly delivered if sent either by first class mail to the premises owner's last known address (deemed delivered on third day after depositing in mail) or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner as identified by the Village's records.

C. Exception to 20.03 A. Whenever the Chief determines that the police department has responded to two or more nuisance activities related to the manufacture or delivery of controlled substances or related offenses, as defined in Chapter 961 of the Wisconsin Statutes that have occurred at a premises during any consecutive 36-month period, the Chief may notify the premises owner in writing that the premises constitutes a chronic nuisance.

Section 20.04 Abatement Plan

Any owner receiving notice pursuant to Section 20.03 shall meet with the Chief within 5 days of receipt of such notice. The parties shall review the nuisance activities occurring at the premises for the purpose of determining the appropriate River Hills Police Department abatement plan for the premises. Within 10 days of this meeting unless the Chief agrees in writing to a longer period, the owner shall comply with the abatement plan agreed upon with the Chief to end the nuisance activity on the premises. The plan shall also specify a name, address, telephone number and if applicable a fax number and e-mail address of a person living within 60 miles of the premises who can be contacted in the event of further police, fire, or inspection contact.

Section 20.05 Penalties for Failure to Comply with Abatement Plan

Any person failing to comply with the Abatement Plan under section 20.04 shall be subject to a penalty as provided under section 2.15 of the Village Code.

Section 20.06 Additional Nuisance Activity

Whenever the Chief determines that: (1) additional nuisance activity has occurred within 12 months of the last nuisance activity at a premises for which notice has been issued pursuant to Section 20.03; (2) that this additional nuisance activity has occurred not less than 15 days after notice had been served; and (3) that reasonable efforts have not been made to abate the nuisance activity; then the Chief may calculate the cost of police, building inspector or health department response for this additional and any subsequent nuisance activities occurring within 12 months of the last nuisance activity and shall prepare a statement of such costs to be assessed to the owner of the premises and collected as a special charge against the property pursuant to Section 66.0627 Wis. Stats. The Chief shall send the assessment of the cost of police response to the premises

owner and notify the owner in writing that the assessment must be paid within 30 days or it will be levied and collected as a special charge pursuant to Section 66.0627 Wis. Stats. This assessment of police, building inspector or health department costs and the notice shall be prepared and delivered pursuant to Section 20.03 and the Chief shall send a copy to the Village Treasurer.

Section 20.07 Eviction or Retaliation Prohibited.

A. It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant because that tenant complained to the Chief about nuisance activity on the landlord's premises. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the 12-month period following receipt of the complaint by the Chief constitutes unlawful retaliation under this subsection. Such presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. "Good cause" as used in this subsection means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this section. Notwithstanding the foregoing, a tenant's lease agreement or periodic tenancy may be terminated for a failure to pay rent; committing nuisance activity as defined in 20.02; violating the terms and conditions of the lease agreement or periodic tenancy or as otherwise provided in ch. 709, Wis. Stats., and ch. Ag. 134, Wis. Adm. Code. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic tenancy shall not be deemed a violation of this subsection.

B. Any person violating the above section shall be subject to a penalty as provided under section 2.15 of the Village Code.

Section 20.08 Appeal

The Chief's decision under sections 20.03, 20.04 or 20.06 may be appealed to the Board of Appeals in accordance with the provisions of Sec. 7.100 of the Village Code, except that any appeal of the Chief's decision under sections 20.03 or 20.04 must be filed within 15 days of receipt of the written decision or order being appealed. The Board of Appeals, after a hearing, may affirm, reverse or remand with recommendations any order, requirement, decision or determination of the Chief made under this article. The Board of Appeals shall decide all appeals under this article within 30 days after final hearing and shall transmit a signed copy of the Board's decision to the appellant and to the Chief."

SECTION II. That if any subsection, section or portions of this ordinance or the application thereof to any persons as enacted hereunder is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof and the validity of the ordinance in all other respects shall not be affected thereby.

SECTION III. That all ordinances or parts of ordinances conflicting with the provisions of this

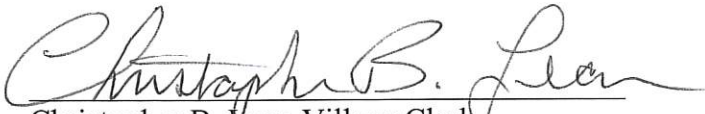
ordinance are hereby to such extent repealed.

SECTION IV. This Ordinance shall take effect upon passage and publication as provided by law.

PASSED AND ADOPTED by the Village Board of the Village of River Hills, Milwaukee County, Wisconsin this 17th day of July, 2013.


Robert C. Brunner, Village President

Countersigned:


Christopher B. Lear, Village Clerk