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**ORDINANCE 13-14-15**

**An Ordinance Adding Chapter 12.10 of the Johnsburg Municipal Code  
Crime Free Rental Housing**

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AN ORDINANCE PASSED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF JOHNSBURG

AT THEIR REGULAR MEETING ON SEPTEMBER 4, 2013

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE

PRESIDENT AND BOARD OF TRUSTEES

OF THE VILLAGE OF JOHNSBURG

President

Edwin P. Hettermann

Board of Trustees

John Huemann  
Mary Lou Hutchinson  
Rich Janusz  
Greg Klemstein  
Kevin McEvoy  
Janice Sisk

Village Clerk

Claudett E. Peters

## ORDINANCE 13-14-15

### An Ordinance Adding Chapter 12.10 of the Johnsburg Municipal Code Crime Free Rental Housing

SECTION 1: That Chapter 12.10 is added as follows:

#### **12.10: CRIME FREE RENTAL HOUSING**

It has been determined to be in the best interests of the residents of the village to implement a program in order to work with all landlords to eliminate nuisances in order to safeguard their properties and create a peaceful and safe environment in the village. It is the responsibility of the landlord to take any and all actions permitted by law to eliminate nuisances.

A. Crime Free Lease addendum - Any owner, agent, management company or operator of any residential rental property is required to utilize a crime-free lease addendum in the form provided by the Johnsburg Police Chief as a part of every lease executed by an owner, agent, management company or operator. Said addendum shall state that any nuisance (including criminal activity) facilitated by or permitted by the renter, member of the renter's household, guest, invitee or any party under the control of the renter shall constitute a lease violation. The owner, agent or operator shall have the authority pursuant to said addendum to initiate eviction proceedings in accordance with the laws of this state regarding forcible entry and detainer.

B. Chronic Nuisance Property -It shall be unlawful for any property within the village to become or remain a chronic nuisance property in violation of this chapter.

- (b) It shall be unlawful for any owner, agent, management company, or operator of any residential property to:
  - (1) Permit a property to become a chronic nuisance property; or
  - (2) Allow a property to continue as a chronic nuisance property.
- (c) Each day that a violation of this chapter continues shall be considered a separate and distinct offense.

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

*Chief of police* means the Chief of Police of the Village of Johnsburg or his or her designee.

*Chronic nuisance property* means property upon which two (2) or more events of nuisance activities have occurred within a six-month period that have been independently investigated by any law enforcement agency.

*Control* means the ability to regulate, restrain, dominate, counteract, or govern conduct that occurs on that property.

*Nuisance activity* means any one (1) of the following activities, behaviors or conduct, as defined by federal, state or village ordinance:

- (1) Disorderly conduct as defined in 720 ILCS 5/26-1.
- (2) Unlawful use of weapons as defined in 720 ILCS 5/24-1 et seq.
- (3) Mob action as defined in 720 ILCS 5/25-1.
- (4) Discharge of a firearm as defined in 720 ILCS 5/24-1.2 and 1.5.
- (5) Gambling as defined by 720 ILCS 5/28-1.
- (6) Possession, manufacture, or delivery of controlled substances as defined by 720 ILCS 570/401 et seq.
- (7) Public indecency as defined by 720 ILCS 5/11-9.
- (8) Assault or battery or any related offense as defined in 720 ILCS 5/12-1 et seq.
- (9) Sexual abuse or related offense as defined in 720 ILCS 5/12-12 et seq.
- (10) Prostitution as defined in 720 ILCS 5/11-14 et seq.
- (11) Criminal damage to property as defined in 720 ILCS 5/21-1 et seq.
- (12) Possession, cultivation, manufacture, or delivery of cannabis as defined in 720 ILCS 550/1 et seq.
- (13) Illegal consumption or possession of alcohol as defined in 235 ILCS 5/1 et seq.
- (14) Criminal housing management defined in 720 ILCS 5/12-5.1.
- (15) Structure unfit for human occupancy as defined in the Johnsburg's Property Maintenance Code.
- (16) Unsafe structure as defined in the Johnsburg's Property Maintenance Code.
- (17) Unlawful structure as defined in the Johnsburg's Property Maintenance Code.
- (18) Multiple violations of the Johnsburg's Property Maintenance Code continuing after disposition of a complaint for those violations.
- (19) Activity that constitutes a violation of a felony or class A misdemeanor pursuant to a federal or Illinois Statute.
- (20) A violation of chapter 12, , Noise Violation.
- (21) A violation of a chapter of this Code, adopting class A misdemeanors under Illinois State Statutes.

*Owner* means any person, partnership, land trust, or corporation having any legal or equitable interest in or control of property. Owner includes, but is not limited to:

- (1) A mortgagee in possession in who is vested with all or part of the legal title to the property or, all or part of the beneficial ownership and the rights to the present use and enjoyment of the premises.
- (2) An occupant who can control what occurs on the property.
- (3) Any person acting as an agent of an owner.

*Permit* means to suffer, allow, consent to, and acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

*Person* means any natural person, association, partnership, corporation, trust, or other entity capable of owning, occupying, or using property in the village.

*Person in charge* means any person in actual or constructive possession of a property, including but not limited to, an owner, occupant of property under his or her ownership or control.

*Property* means any real property, including land and that which is affixed, incidental, or pertinent to land, including but not limited to, any premises, room, house, building, or structure, or any separate part or portion thereof, whether permitted or not.

*(Ord. No. 3703, § 2, 6-25-12)*

D. Procedures - When the chief of police of the village, or the chief's designee, receives one (1) or more police reports documenting the occurrence of a nuisance activity on or within a single-family property or a dwelling unit, the chief of police shall independently review such reports to determine whether they describe nuisance activities. Upon such findings the chief, or the chief's designee, may either request a meeting with the person in charge of the property or issue a notice of ordinance violation, to the taxpayer of record of such property, which notice shall include the following:

- (1) The street address or legal description sufficient for identification of the property.
- (2) A statement that Johnsburg Police Department has information that the property may be a chronic nuisance property, with a list of the nuisance activities that may exist or that have occurred and a copy of any code violations which have been adjudicated.
- (3) Date, time and place of the hearing on the alleged ordinance violation of Chapter 12 as permitting or allowing a chronic nuisance property.

E. Services -

- (a) Service shall be made either personally or by first-class mail, postage prepaid, return receipt requested, addressed to the person in charge at the address of the property believed to be chronic nuisance property, or such a place which is likely to give notice to the person in charge.
- (b) A copy of the notice shall be either personally served or by first-class mail to the taxpayer of record at such address as shown on the tax rolls of the county and the occupant, at the address of the property.
- (c) The failure of any person to receive notice that the property may be a chronic nuisance property shall not invalidate or otherwise affect the proceedings under this section.

F. Administrative Hearing -

- (a) A hearing before the village administrative hearing officer shall be conducted in accordance with chapter 18, of the Village Code and shall show, by a preponderance of evidence, that the subject property is a chronic nuisance property.
- (b) The village's representative shall present evidence in support of its claim that the property is a chronic nuisance property. The person in charge or the person in charge's local representative shall be permitted to rebut such evidence.
- (c) 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 a violation exists. The determination shall be in writing and shall be designated as the findings, decisions and order. The findings, decision and order shall include the hearing officer's findings of fact, a decision whether or not a violation exists based upon the finding of fact, and sanctioning the person in charge or owner as specified in subsection (d) below, or dismissing the case in the event a violation is not proved.
- (d) If the hearing officer makes a finding that a property was, or is, a nuisance property, he or she may fine the person in charge or the owner of the property if the owner is different than the person in charge, seven hundred fifty dollars (\$750.00) for each violation of this article. Each day a nuisance activity occurs or continues 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 nuisance activity goes unabated.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment

shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Voting Aye: Trustee Huemann, Hutchinson, Janusz, Klemstein, McEvoy and Sisk

Voting No: None

Absent: None

Abstain: None

APPROVED:

  
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Edwin P. Hettermann, Village President

(SEAL)

ATTEST:

  
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Claudett E. Peters, Village Administrator

Passed: September 4, 2013

Approved: September 4, 2013

Published: September 4, 2013

Prepared by:

Claudett E. Peters, Village Administrator  
Village of Johnsburg  
1515 Channel Beach Ave  
Johnsburg, IL 60051

CERTIFICATION

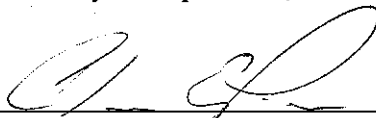
I, CLAUDETT E. PETERS, do hereby certify by my signature affixed below that I am the duly appointed, acting and qualified Clerk of the Village of Johnsburg, County of McHenry, Illinois.

I do further certify that a regular meeting of the President and Board of Trustees of the Village of Johnsburg, held on the 4 day of September, 2013 the foregoing Ordinance entitled: **“An Ordinance Adding Chapter 12.10 of the Johnsburg Municipal Code - Crime Free Rental Housing”** was duly passed by the President and Board of Trustees of the Village of Johnsburg, a true and correct copy of which is attached hereto. The passage of said Ordinance was on a roll call vote, on which the vote was as follows:

Voting Aye: Trustee Huemann, Hutchinson, Janusz, Klemstein, McEvoy and Sisk  
Voting Nay: None  
Absent: None  
Abstain: None

I do further certify that said Ordinance was duly published on 4th of September, 2013 in pamphlet form.

IN WITNESS WHEREOF, I have above set my hand and caused to be affixed the seal of the VILLAGE OF JOHNSBURG, Illinois, on the 4th day of September, 2013.

  
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Claudett E. Peters, Village Clerk  
Village of Johnsburg

(SEAL)