



APR 23 2015

CITY OF NEW BEDFORD

In the Year Two Thousand And Fifteen

AN ORDINANCE

Amending Chapter 6, Building and Other Structures

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1. Chapter 6, Article VII, Prevention and Abatement of Nuisances, is hereby amended by adding Section 6-125, Chronic Problem Properties, as follows:

Sec. 125. Chronic Problem Properties.

I. Definitions

- A. The term "Problem Property" is a residential or commercial property for which there have been no fewer than eight Valid Complaints in the preceding twelve months for any misdemeanor or felony under Massachusetts law that occurred in a dwelling unit within the property, on the property, or on an immediate sidewalk or street or abutting property, involving tenants, occupants, residents, or persons allowed on the property, including offenses involving the disturbance of the peace. In designating a property as a Problem Property, the City shall take into consideration the nature of the activity, the number of dwelling units at the property, the nature of the use of the property, and the history of police complaints at the subject property and at properties owned by the same property owner or managed by the same management company.

Once designated a Problem Property, a property shall remain so designated until the Police Department confirms that the property has not been the subject of a Valid Complaint for a period of no less than twelve months.

- B. The term "Valid Complaint" shall refer to an investigated finding, documented by police department personnel dispatched or caused to respond to an incident, that a misdemeanor or felony under Massachusetts law has taken place in a dwelling unit within a property, on a property, or on an immediate sidewalk or street or abutting property, involving tenants,

occupants, residents, or persons allowed on the property. A complaint need not result in an arrest or a formal criminal charge to be deemed a Valid Complaint. A "Valid Complaint," as used in this chapter, shall not include a police response based on a complaint by an occupant of the property who is a victim or a family member of a victim of the reported offense. This term shall not include incidents involving an occupant of the premises who is the victim of domestic violence and who reported the incident of domestic violence to the police.

- C. The "City" shall mean the Mayor or his or her authorized designee.
- D. The term "Police Response" shall mean any and all police action deemed appropriate by the Police Chief to protect the health, safety and welfare of inhabitants of a property, location, or immediate area where Valid Complaints have been documented, including the posting of police personnel at or near the property.

II. Notification

- A. After a property has accumulated 3 Valid Complaints, the City shall provide notice, in writing, to 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. This notice shall state:
 - 1. The property owner and list the specific address that has accumulated 3 Valid Complaints;
 - 2. The number and nature of the Valid Complaints that have occurred on said property in the preceding twelve months
 - 3. The number of additional incidents after which the property could be deemed a Problem Property.
 - 4. That if the property is deemed a Problem Property, the cost of future police response may be assessed against the property owner and responsible tenant.
- B. For each property deemed by the City to be a Problem Property, the City shall provide notice, in writing, to the property owner and 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. This notice shall state:
 - 1. The property owner and list the specific address that has been designated a Problem Property;
 - 2. The number of Valid Complaints that have occurred on said property in the preceding twelve months;

3. The cost of the police response to the property;
4. To whom the property owner must address a letter of appeal of the Problem Property designation; and
5. That the costs of future police response may be assessed against the property owner.

III. Cost of Police Assigned to Problem Properties

- A. The Police Chief shall keep an accurate record of the actual 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, the amount of time each officer worked on the response, and the actual cost of each officer's participation in the response based on that officer's actual rate of pay;
- B. The Police Chief shall forward such record to the Collector-Treasurer;
- C. After a dwelling unit within a property, or the entire property has been determined to be a Problem Property, the Police Chief, at his or her discretion, may assess the cost of any future police response to the property owner, including the posting of police personnel at the property; and
 1. The City shall notify the property owner of the Police Department's assessment of costs by:
 - a. Delivering such notification by regular and certified mail, return receipt requested, sent to the property owner's residence and usual place of business that is on record at the assessor's office;
 - b. Identifying the number of Valid Complaints that have occurred since the property's designation as a Problem Property;
 - c. Informing the property owner of the costs assessed under this ordinance;
 - d. Indicating where and to whom the property owner must address a letter of appeal of police response costs assigned to him or her;
 - e. Informing the property owner that he or she has fourteen business days to file an appeal and thirty business days to pay the assessment;

- f. The Police Department shall have the authority to consider the nature of the incident(s) underlying the Valid Complaints in making their decision to assess costs.
2. The Police Department shall consider the following factors in making their decision to assess costs:
 - a. The nature of the incident(s) underlying the Valid Complaints;
 - b. Whether the incident(s) resulted in an arrest;
 - c. The effect of the activity on the quality of life in the neighborhood;
 - d. The property owner's and occupant's willingness to cooperate with police;
 - e. The history of criminal activity taking place at the property or location.

V. Payments

- A. The property owner is responsible for payment of the bill in full within thirty business days of receiving the notification. All amounts collected by the Collector-Treasurer shall be deposited into a revolving fund under the control of the Police Department. If not paid, the Collector-Treasurer is hereby authorized and empowered to bill the property owner for the cost the City incurred for its police response.
- B. 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. All charges to recover costs imposed in this ordinance shall constitute a municipal charges lien on the property so charged in accordance with Massachusetts General Laws chapter 40, section 58.

VI. Appeal of Designation or Cost Assessment

- A. The property owner may, within fourteen business days of receipt of the problem property designation or cost assessment, appeal the decision by requesting, in writing, a hearing before the Problem Properties Appeals Panel. The Problem Properties Appeals Panel shall be a three-person panel consisting of one member appointed by the Mayor, one member appointed by the City Council, and one member appointed by the Mayor and confirmed by the City Council. The term for members for the Problem Properties Appeals Panel shall be three years.

- B. The Problem Properties Appeals Panel shall determine whether, in light of the factors specified in section III (D)(2) above, the Police Department's decision to assess the costs of a police response at a problem property was reasonable. The Problem Properties Appeals Panel may uphold or reduce the costs assessed by the Police Department, but it may not increase them. The Problem Properties Appeals Panel's decision must be in writing. If the Problem Properties Appeals Panel finds in favor of the property owner, the cost of the penalty shall be abated; if the assessment is upheld or reduced, it shall be due and payable within thirty business days.

VII. *Eviction*

In the event the property owner has, in good faith, commenced eviction proceedings against the tenant(s) responsible for the **incident** at the property that results in the assessment of costs, the assessment of costs shall be reduced to \$0.00 for that particular incident. The Police Chief may continue police response at the particular property or location, at his or her discretion, at all times after the eviction proceeding has been completed; provided however that such costs shall not be assessed to the property owner.

VIII. *Prevention*

A landlord may request in writing that the city provide the landlord with a list of any valid complaints involving a prospective tenant occurring within 1 year prior to the date of the written request. **To the extent permitted by law**, the city shall provide the information to the landlord within 14 business days of the written request.

Failure of the city to provide such information that is found to have existed at the time of the written request **and legally could have been provided to the landlord** shall cause this ordinance to be invalid against the landlord for any valid complaints involving the prospective tenant for whom the written request was made.

Section 2. This ordinance shall take effect in accordance with the provisions of Chapter 43 of the General Laws.

Referred to the Committee on Ordinances.

Passed, to a Second Reading – Yeas 9, Nays 1.

Passed, to be Ordained – Yeas 8, Nays 3.

Presented to the Mayor for Approval April 27, 2015.

Approved April 29, 2015.

IN CITY COUNCIL, February 12, 2015

Dennis W. Farias, City Clerk

IN CITY COUNCIL, April 09, 2015

Dennis W. Farias, City Clerk

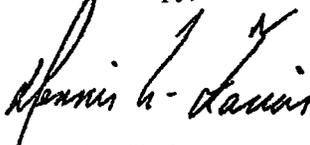
IN CITY COUNCIL, April 23, 2015

Dennis W. Farias, City Clerk

Dennis W. Farias, City Clerk

Jonathan F. Mitchell, Mayor

a true copy, attest:



City Clerk