

ORDINANCE NO. 6354, AS AMENDED

**AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE CHAPTER 46,
ARTICLE IV, DIVISION 5 - ILLEGAL ACTIVITY NUISANCE**

WHEREAS, the City has received numerous complaints recently from citizens about nuisance activities in their neighborhoods; and

WHEREAS, the City has a responsibility to promote the health and well-being of its community and to help safeguard its residents' peaceful and quiet enjoyment of their property.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. Fairbanks General Code Chapter 46, Article IV, Division 5 is hereby amended, as follows [new text in **bold/underlined** font; deleted text in ~~strike through~~ font]:

Sec. 46-211. Definitions.

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

Chronic nuisance property means:

(1) Property on which three or more nuisance activities have occurred during any 60-day period;

(2) Property on which or within ~~200~~ **250** feet of which any person associated with the property has engaged in three or more nuisance activity during any 60-day period;
or

(3) Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture or delivery of a controlled substance or related offenses as defined in AS 11.71.010—11.71.060 have occurred within the previous 30 days.

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

Deputy director of public safety **means the deputy chief of the police department or their designee**~~includes the deputy director of public safety and his designee.~~

Intimidation means:

(1) Tampering or interfering with property while having no right to do so nor reasonable ground to believe that the person has such right, with the intent to cause substantial inconvenience to another because of the person's perception of the other's race, color, religion, national origin or sexual orientation;

(2) Intentionally subjecting another to offensive physical contact because of the person's perception of the other's race, color, religion, national origin or sexual orientation; or

(3) Intentionally, because of the person's perception of race, color, religion, national origin or sexual orientation of another or of a member of the other's family, subjecting such other person to alarm by threatening to:

a. Inflict serious physical injury upon or to commit a felony affecting such other person, or a member of the person's family; or

b. Cause substantial damage to the property of the other person or of a member of the other person's family.

Nuisance activities **activity** means any of the following activities, behaviors, or criminal conduct:

(1) Harassment as defined in AS 11.61.120;

(2) Intimidation as defined in this section;

(3) Assault and reckless endangerment as defined in AS 11.41.200—11.41.230;

(4) Disorderly conduct as defined in AS 11.61.110 or section 46-41;

(5) Disturbing the peace as provided in section 46-42;

(6) Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as provided in AS 11.51.130, AS 11.41.434—11.41.440, AS 11.41.455;

(7) Prostitution or related offenses as provided in AS 11.66.100—11.66.130;

(8) Alcoholic liquor **beverage** violations as provided in AS 04.11.010—04.11.015;

(9) Offensive littering as provided in AS 46.06.080 and section 46-162;

(10) Criminal trespass as provided in AS 11.46.320—11.46.330;

(11) Theft as provided in AS 11.46.100—11.46.200;

- (12) Arson or related offenses as provided in AS 11.46.410—11.46.430;
- (13) Possession, manufacture or delivery of a controlled substance or related offenses as provided in AS 11.71.010—11.71.060;
- (14) Illegal gambling as provided in AS 11.66.200—11.66.260;
- (15) Criminal mischief as provided in AS 11.46.480—11.46.486;
- (16) Any attempt to commit, as defined in AS 11.31.100, or conspiracy to commit, as defined in AS 11.31.120, any of the above offenses;
- (17) ~~Fire or~~ **Unlawful** discharge of a firearm as provided in AS 11.61.190—11.61.220 and section 46-293;
- (18) Unlawful operation of sound producing or reproducing equipment as provided in section 46-186;
- (19) Unlawful drinking in public places as provided in section 46-80;
- (20) Curfew as provided by section 46-81;
- (21) Indecent exposure as provided in AS 11.41.460;
- (22) Illegal mobile home occupation as defined in section 10-381; and
- (23) Continued failure to secure a vacant building, as defined in section 10-207.
- (24) Harboring a dangerous or nuisance animal as determined by the Borough's Animal Control Officer with said determination upheld through appeal to the Borough's Animal Control Commission or at the expiration of the period in which to make an appeal.**

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

Person means any natural person, agent, association, firm, partnership or corporation capable of owning, occupying or using property in the city.

Person associated with means any person who, on the occasion of nuisance activity, has entered, patronized, visited or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner.

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

Property means any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residential premises, room, house, parking area, loading area, landscaping, building or structure or any separate part, unit or portion, or any business equipment, whether or not permanent.

For property consisting of more than one unit, property is limited to the unit or the portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of property used in common by all units of property, including without limitation other structures erected on the property and areas used for parking, loading and landscaping.

Property Owner of Record means the individual or entity shown on the tax rolls of the borough.

Sec. 46-212. Chronic nuisance prohibited.

(a) Any property within the city which is a chronic nuisance property is in violation of this article and subject to its remedies.

(b) Any person in charge who permits property to be chronic nuisance property shall be in violation of this article and subject to its remedies.

Sec. 46-213. Procedures.

(a) When the ~~mayor~~, ~~M~~mayor's designee, or city council receives ~~two~~ **three** or more reports **from distinct, identified individuals** documenting **regarding** the occurrence of nuisance activity on or within ~~200~~ **250** feet of a property ~~within the area~~, the ~~C~~chief of ~~P~~police or their designee shall independently review such reports to determine whether ~~they describe criminal or nuisance acts enumerated under this chapter~~ **the property is a chronic nuisance property**.

(b) Upon such a finding, the ~~M~~mayor's designee shall send a **written** notice to the person in charge **and, if different, the property owner of record**, ~~in writing that the property is in danger of becoming~~ **has been identified as a** chronic nuisance property. The notice must contain the following information:

(1) The street address or a legal description sufficient for identification of the property;

(2) A statement that the city has **identified** information that the property ~~may be~~ **as a** chronic nuisance property, with a concise description of the nuisance activities that may exist or that have occurred. The ~~M~~mayor's designee shall offer the person in charge an opportunity to propose a

course of action that the ~~M~~mayor agrees will abate the nuisance activities giving rise to the violation; and

(3) ~~A~~ Demand that the person in charge, or property owner of record or their legal agent, respond to the ~~M~~mayor's designee within ten days of receipt of the notice to discuss the nuisance activity-; and

(4) Notification that no response by a person in charge within the ten-day period will result in a civil penalty of \$250, that an additional \$250 civil penalty will be added every ten days thereafter until a response has been received, that any amount due under this section is in addition to any other permissible penalty or remedy, that any amount due under this section will not be reduced or reimbursed because a person in charge ultimately did respond, and that a lien may be placed against the property and/or property owner of record to recover any balance accrued.

(c) A copy of the notice shall also be posted at the property if ten days has elapsed from the service or mailing of notice and no response has been received.

(d) The failure of any person to receive notice that the property may be a chronic nuisance shall not invalidate or otherwise affect the proceedings under this article.

~~Sec. 46-214. Action by deputy director of public safety.~~

~~(a) After complying with the notification procedures in section 46-213, when the deputy director of public safety determines that the property has become chronic nuisance property, the deputy director of public safety shall notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information:~~

~~(1) The street address or a legal description sufficient for identification of the property;~~

~~(2) A statement that the deputy director of public safety has determined the property to be chronic nuisance property with a concise description of the nuisance activities leading to his findings; and~~

~~(3) Demand that the person in charge respond within ten days to the deputy director of public safety and propose a course of action that the deputy director of public safety agrees will abate the nuisance activities giving rise to the violation.~~

~~(b) 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 a chronic nuisance property, or such other place which is likely to give the person in charge notice of the determination by the deputy director of public safety.~~

~~(c) A copy of the notice shall be served on the owner at such address as shown on the tax rolls of the borough, and/or the occupant, at the address of the property, if these persons are different than the person in charge, and shall be made either personally or by first class mail, postage prepaid.~~

~~(d) A copy of the notice shall also be posted at the property if ten days has elapsed from the service or mailing of notice to the person in charge and the person in charge has not contacted the deputy director of public safety.~~

~~(e) The failure of any person to receive notice that the property may be a chronic nuisance shall not invalidate or otherwise affect the proceedings under this article.~~

Sec. 46-2174. Copies of notice to city attorney.

Concurrent with the notification procedures in this division, ~~the deputy director of public safety shall send~~ copies of the notice, as well as any other documentation which supports legal proceedings against the property, **must be provided** to the city attorney.

Sec. 46-215. Notification regarding chronic nuisance property.

Chronic nuisance property, as defined in section 46-211, ~~shall be~~ **is** subject only to the notification requirements of this article.

Sec. 46-216. Postponement of legal proceedings.

If, ~~after the notification but prior to the commencement of legal proceedings by the city pursuant to this article, a person in charge stipulates with the deputy director of public safety~~ **mayor** ~~that the person in charge will pursue~~ **to** a course of action the parties agree will abate the nuisance activities giving rise to the violation, ~~the deputy director of public safety~~ **mayor** may agree to postpone legal proceedings for a period of not less than ten nor more than 30 days. If the agreed course of action does not result in abatement of the nuisance activity or if no agreement concerning abatement is reached within 30 days, ~~the deputy director of public safety~~ **mayor** may refer the matter to the city attorney to commence a legal proceeding to abate the nuisance.

Sec. 46-2187. Effect of response.

When a person in charge makes a response to the ~~deputy director of public safety~~ **mayor** as required in section 46-216, any conduct or statements made in connection with the furnishing of that response ~~shall~~ **will** not constitute an admission that any

nuisance activities have or are occurring. This section does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.

Sec. 46-2198. Burden of proof; defenses; mitigation of civil penalty.

(a) In an action for chronic nuisance property, the city shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.

(b) It is a defense to an action for chronic nuisance property that the person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is chronic nuisance property.

(c) In establishing the amount of any civil penalty requested, the court may consider any of the following factors and shall cite those found applicable:

- (1) The actions taken by the person in charge to mitigate or correct the nuisance activities at the property.
- (2) The financial condition of the person in charge.
- (3) Whether the problem at the property was repeated or continuous.
- (4) The magnitude or gravity of the problem.
- (5) The cooperativeness of the person in charge with the city.
- (6) The cost to the city of investigating and correcting or attempting to correct the nuisance activities.
- (7) Any other factor deemed by the court to be relevant.

Sec. 46-22019. Closure during pendency of action; emergency closure.

Any emergency closure proceeding shall be based on evidence showing that nuisance activities have occurred on the property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of emergency closure ~~shall~~ **will** be governed by state law for obtaining temporary restraining orders. In such an event, the notification procedures set forth in this chapter need not be complied with.

Sec. 46-2240. Commencement of actions and remedies.

(a) The ~~deputy director of public safety~~ **mayor** may request **that** the city attorney ~~to~~ commence legal proceedings in a court of competent jurisdiction to enjoin or abate **a**

chronic nuisance property and to seek closure, the imposition of civil penalties against any or all of the persons in charge, and any such other relief deemed appropriate.

(b) If after the commencement but prior to the trial of an action or suit brought by the city pursuant to this article a person in charge of a chronic nuisance property stipulates with the city that ~~he~~ they will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the city attorney may agree to stay proceedings for a period of not less than ten nor more than 60 days, except in the case of nuisance activity involving drugs where a search warrant was executed at the property. The person in charge or the city attorney may thereafter petition the court for such additional like period of time as may be necessary to complete the actions to abate the nuisance activity. However, if the city attorney reasonably believes the person in charge of a property is not diligently pursuing the actions necessary to abate the nuisance activity, the city attorney may apply to the court for release from the stay and may seek such relief as is deemed appropriate.

(c) If a court determines property to be a chronic nuisance property, the court shall order that the property be closed and secured against access, use, and occupancy for a period of not less than six months, nor more than one year. The court shall retain jurisdiction during any period of closure. The person in charge may petition the court for an order reducing the period of closure if the person in charge and the city stipulate that the nuisance has been and will continue to be abated.

(d) If a property is found to be chronic nuisance property, the person in charge of the chronic nuisance property is subject to a civil penalty of up to \$100.00 per day for each day nuisance activities occurred on the property, following notice to the person in charge.

Sec. 46-2221. Enforcement.

(a) The court may authorize the city to physically secure the property against all access, use, or occupancy if the person in charge fails to do so within the time specified by the court. If the city is authorized to secure the property, all costs reasonably incurred by the city to physically secure the property shall be paid to the city by the person in charge and may be included in the city's ~~money~~ judgment. As used in this subsection, "costs" mean those costs actually incurred by the city for physically securing the property, as well as tenant relocation costs.

(1) The finance department of ~~public safety~~ shall prepare a statement of costs, and the city shall thereafter submit the statement to the court for its review.

(2) Judgments imposed by this division shall bear interest at the legal rate of interest under state law.

(b) Any person who is assessed the costs of physically securing the property by the court shall be personally liable for their payment to the city.

(c) The person in charge shall pay reasonable relocation costs of a tenant if without actual notice the tenant moved into the property after a person in charge received notice of either:

(1) The ~~department of public safety~~city's determination; or

(2) ~~A person in charge received notice of a~~An action brought pursuant to this article.

(d) In any action pursuant to this division, the court may, in its discretion, award attorney's fees to the prevailing party.

Secs. 46-2232—46-229. - Reserved.

SECTION 2. The effective date of this ordinance is six days after its adoption.


Mindy O'Neill, City Mayor

YEAS: Cleworth, Marney, Ringstad, Sprinkle, Tidwell
NAYS: None
ABSENT: Therrien
ADOPTED: September 28, 2026

ATTEST:

APPROVED AS TO FORM:


D. Danyielle Snider, MMC, City Clerk


Thomas A. Chard II, City Attorney